

## Section 1:

### **1.01 AUTHORITY AND OBJECTIVE**

To achieve the objectives outlined in *Wisconsin Statutes*, Section 59.69, 59.692, 59.694, 281.31, 87.30 and NR 115 and NR 116, the Board of Supervisors of Forest County ordains zoning regulations as follows:

This ordinance is adopted in order to promote and protect public health, safety, comfort, convenience, prosperity, aesthetics, and other aspects of the general welfare; and more specifically, to fix reasonable standards to which structures shall conform, to regulate lot coverage and population density, to conserve the value of land and structures in all of the unincorporated areas of the county, to guide the proper distribution and location of various land uses, to promote the safety and efficiency of the streets and highways, to provide for adequate light, air, sanitation, and drainage, to conserve natural resources, to provide safety from fire and other hazards, to define the powers and duties to the administrative bodies as provided hereinafter, and to prescribe penalties for the violation of the provisions of this ordinance.

### **1.02 SHORT TITLE**

This ordinance shall be known as, referred to, or cited as: *The Forest County Zoning Ordinance*.

### **1.03 REPEAL AND EFFECTIVE DATE**

The existing County Comprehensive Zoning Ordinance, Flood Plain Ordinance, Shore Land Ordinance, and Wetland Ordinance are hereby repealed in their entirety. Effective on date of adoption and publication, (in the Forest County local newspaper), of this ordinance. Adoption of the comprehensive revision of these Ordinances is by County Board resolution. The County Board by a single ordinance, shall repeal the existing County Zoning Ordinances and re-enact this comprehensive revision.

### **1.04 APPLICATION OF OVERLAPPING REGULATIONS**

This ordinance shall not repeal private covenants or other non-zoning public ordinances, except it shall apply whenever it imposes stricter regulations.

For towns in which the previous *Forest County Zoning Ordinance* was in effect prior to adoption of this ordinance, said previous ordinances shall remain in effect for a period of up to one (1) year, or until this ordinance is approved by the town board, whichever period is shorter.

This ordinance contains: Comprehensive Shore Land, Flood Plain, and Wetland regulations which, when applied within the jurisdictional area as defined in Section 144.26(2)(d.), 23.32, 61.351, 62.231, and chapter 87 of the Wis. Stats. Supplement, takes precedence over the less restrictive provisions of the respective districts except Shore Land Zoning/Lake Development District, Flood Plain and Wetland sections shall prevail in all districts.

No approval by any town or town board shall be required for this ordinance within the Shore Lands as set forth under Section 5. References made in this ordinance to State Statutes shall apply to the Statute numbering system in use at the time of adoption of this ordinance, regardless of future changes to that numbering system.

### **1.05 SEPARABILITY**

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

### **1.06 FORCE AND EFFECT**

The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure, or land.

**106.1** No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with all of the regulations herein specified.

**106.2** Lots created after the effective date of this ordinance shall meet at least the minimum requirement established by this ordinance. No part of a lot or other open space, or off-street parking, or loading space required, or in connection with any structure for the purpose of complying with this ordinance, shall be included as part of a lot, open space, or off-street parking, or loading space similarly required for any other structure. No lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirement set forth herein.

### **1.07 GENERAL INTERPRETATIONS**

The following rules of construction apply to this ordinance:

The particular shall control the general; in case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control; the word "shall" is always mandatory whereas the word "may" is permissive; words used in the present tense shall include the future, and words used with singular number shall include the plural, and the singular, unless the context clearly indicates the contrary, "structure" includes any part thereof, the phrase "used for" includes "arranged for"; the word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either/or," the conjunction shall be interpreted as follows: "and" indicates that all the connected items, conditions, provisions, or events shall apply; "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination; "either/or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination; all measured distances shall be to the nearest integral foot, if a fraction is one-half (½) foot or more, the integral foot next above shall be taken; the masculine gender includes the feminine and neuter.

## Section 2: General Zoning Provisions

### 2.01 OFFICIAL ZONING MAP

The county is hereby divided into districts as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance. If an atlas is used, each individual map included in the atlas shall be marked and maintained in accordance with the provisions of this section.

If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the County Board of Supervisors.

There shall be only one authentic Official Zoning Map. This Official Zoning Map shall be located in the office of the Zoning Administrator and shall be the final authority as to the current zoning status of land, water areas, and other structures in the county.

## Section 3: Nonconformities

### 3.01 INTENT

Within the districts established by this ordinance, or amendments that may later be adopted, there exist recorded lots, structures, and uses that would be restricted or not permitted under terms of this ordinance or future amendment, it is not the intent of this ordinance to encourage the continuation of a nonconformity. However, to prevent undue hardship, this ordinance permits these nonconformities to continue until they are removed, destroyed, or abandoned, and to allow maintenance, reasonable repairs, and limited modernization.

### 3.02 EXISTING NONCONFORMING USES, STRUCTURES, AND LOTS NOT IN VIOLATION

Lots, structures, and uses of land that are not in conformance with the provisions of this ordinance, but existed prior to the adoption of this ordinance, are not be held in violation of this ordinance. The remaining sections of this Section give the limitations on altering these legal nonconforming uses.

### 3.03 GENERAL PROVISIONS RELATING TO NONCONFORMITIES

#### (1.) Termination

- (A.) If a nonconforming use of land, nonconforming use or a nonconforming structure is discontinued for twelve (12) or more consecutive months, any future uses of the land or structure must be in conformance with the zoning ordinance. This provision does not apply to any period of time during which a use is discontinued as a direct result of government action.
- (B.) The maintenance and repair of nonconforming boathouses extending water ward beyond the ordinary high-water mark of any navigable waters shall comply with the requirement of Section 30.121, *Wis. Stats.*
- (C.) If the nonconforming use of a temporary structure is discontinued, such a nonconforming use shall not be recommenced.
- (D.) Nuisances shall not be permitted to continue as nonconforming uses.

(E.) No structural alteration, addition, or repair to any structure with a nonconforming use shall, over the life of the structure, exceed fifty (50%) percent of the CEAV, unless it is permanently changed to conform to the requirements of this ordinance. Rev 4/24/02

(F.) If an alteration, addition, or repair of a structure with a nonconforming use is prohibited because it is in excess of fifty (50%) percent of the value (see Section 3.06), the property owner may make the proposed alteration, addition, or repair if: **rev 4/16/02**

(a.) A nonconforming use is permanently changed to a conforming use.

(b.) The property owner appeals the determination of the zoning administrator and either the County Board of Adjustment, or the circuit court, find in the property owner's favor under Section 59.69 *Wis. Stats.*

(c.) The property owner successfully petitions to have the property rezoned out of an overlay district in accordance with this ordinance and *Wis. Stats.* 59.69.

## **(2.) Construction in Progress**

If construction has begun with the necessary permits at the time this ordinance is adopted, or amended, the construction may be completed, provided the work is carried on diligently to completion. Construction shall be defined as placing construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition must be carried out before construction begins, substantial excavation or demolition shall be considered construction.

## **(3.) Conditional Uses**

Any existing uses which are listed as conditional use in the district regulations, and for which a conditional-use permit has not been obtained shall be considered a nonconforming use.

## **(4.) Mining Permits in Progress**

Where the holder of a county permit existing at the time this ordinance, or an applicable amendment to the ordinance took effect, has expended substantial sums in reliance on such a permit for the purpose of obtaining a mining permit under *Wis. Stats.* 293.37 et.seq. and begins substantial construction under the permit within three (3) years from the date of its issuance, the lawful use of a structure or property constructed pursuant to the permit, including the routine maintenance of such a structure may be continued, subject to the conditions listed under Section 3.0 of this ordinance.

# **3.04 NONCONFORMING LOTS OF RECORD**

**3.04.01** A single-family home is permitted on a lot that was a lot of record at the time of passage of this ordinance, in a district allowing single-family residences.

**3.04.2** No duplexes, or multi-family homes may be placed on a lot smaller than the minimum stated for such types of residences.

**3.04.3** ~~deleted 4/16/02~~

# **3.05 NONCONFORMING USES OF LAND**

This section shall apply to land with no improvements or improvements with a full market value of two thousand five hundred (\$2,500.) dollars or less.

**3.05.1** No nonconforming use of land shall expand more than fifty (50%) percent (measured by land area), over the maximum area used during the twelve (12) months before adoption of this ordinance.

**3.05.2** The nonconforming use may not be moved to another parcel or another portion of the same parcel, except areas contiguous to the area used at the time the ordinance was adopted.

# **3.06 NONCONFORMING STRUCTURES OR USE OF NONCONFORMING STRUCTURES**

**3.06.1** No nonconforming structure may be moved unless the move would make the structure conform, or closer to conformance.

**3.06.2** Nonconforming Structure Damaged or Destroyed by Violent Wind, Fire, Vandalism, Flood, Ice, Snow, Mold or Infestation. **Rev. 4/16/02**

The structure may be reconstructed or repaired to the size, location, and use it had immediately before the damage occurred, subject to the following conditions:

(1.) A structure that is destroyed or damaged due to a deliberate act by the landowner, or by his or her agent, or due to general deterioration or dilapidated condition, may not be reconstructed or repaired, except in conformance with the standards of this ordinance.

(2.) Except as provided in Section 87.30(1)(d.), *Wis. Stats.*, nonconforming structures that are subject to regulation under a flood plain zoning ordinance may not be reconstructed or repaired except in compliance with the flood plain zoning ordinance.

(3.) A plan to mitigate the adverse effects of a nonconformity shall be developed and submitted prior to repair or reconstruction of any destroyed or damaged nonconforming structure. The plan shall be approved by the zoning administrator prior to the issuance of a zoning permit. The plan shall include an implementation schedule and shall comply with the following requirements as they are specifically zoned for:

(A.) The nonconforming structure's sanitary system, if any, shall be brought up to current standards for new construction.

(B.) For waterfront property, a thirty-five (35) foot buffer area of native vegetation shall be planted or restored. Such buffers shall comply with current *Wisconsin Forestry Best Management Practices for Water Quality* and shall provide effective, permanent erosion and sediment control and shall, within five (5) years, provide at least sixty (60%) percent visual screening of the nonconforming structure, as seen from the water.

(C.) Impervious surface limits as described in each district of this ordinance shall be met. (Maximum lot coverage.)

(D.) Exterior structure materials should be colored as to make the structure visually inconspicuous.

(E.) Any grading, filling, or dredging associated with reconstruction or repair must comply with each district requirement of this ordinance. Excess fill, rock, or materials associated with reconstruction or repair shall be removed from the site and may not be deposited within the structure setback required by each district of this ordinance.

(F.) Any construction activities, including mitigation activities required by this section, shall comply with all applicable standards of the current version of the *Wisconsin Construction Site Best Management Practice Handbook*.

(4.) The landowner shall bear the burden of proof as to the size, location, or use a destroyed or damaged nonconforming structure had immediately prior to the destruction or damage that occurred.

(5.) Repairs are authorized under this provision only to the extent that they are necessary to repair the specific damage caused by violent wind, vandalism, fire, or flood, and only that part of the nonconforming structure that has been destroyed shall be reconstructed.

**3.06.3** If part of structure is a nonconforming use, this use may be extended to the remainder of the structure provided the alterations do not exceed fifty (50%) percent of the structure (CEAV) current equalized assessed value.

#### **3.06.4 Measuring The Fifty (50%) Percent Limit**

No structural alteration, addition, repair, or remodeling to any structure with a nonconforming use shall exceed fifty (50%) percent of the CEAV of the structure over the life of the structure, unless the entire structure is being brought into zoning conformance. Each such investment must be recorded as a percent of the CEAV at the time of permit application. Once the cumulative fifty (50%) limit is reached, no further investment other than normal maintenance is permitted. Rev 4/24/02

(1.) Maintenance, repairs and internal improvements to existing nonconforming principal structures are permitted provided the exterior building envelope is not altered beyond the thickness of new materials.

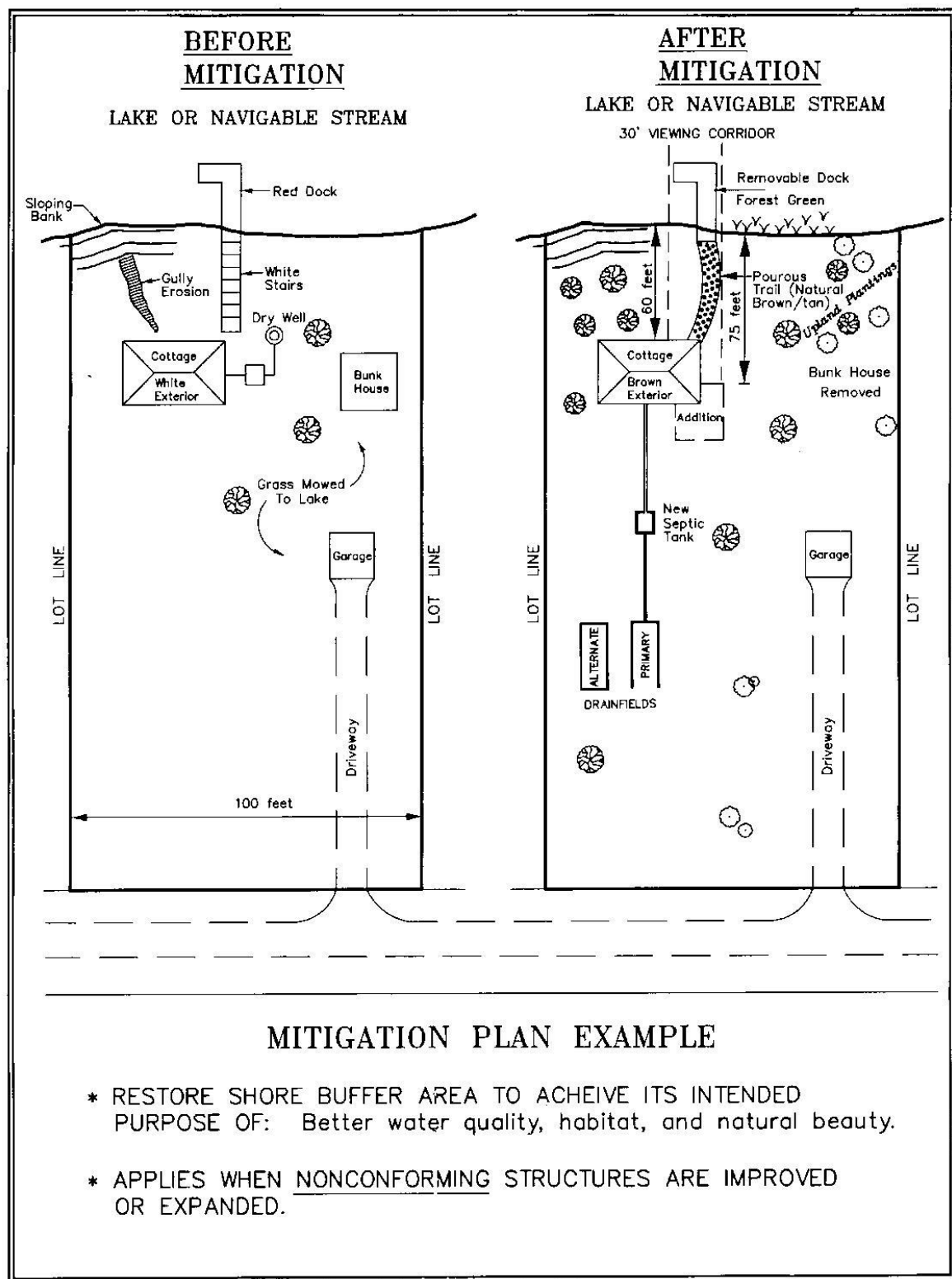
(a.) Such maintenance, repairs and internal improvements include, but are not limited to: Replacement or installation of windows, skylights, doors, vents, siding, insulation, shutters, gutters, flooring, shingles, other roofing, replacing or repairing walls or floors of a foundation and internal improvements.

(b.) An increase in roof pitch is permitted provided the living space is not increased.

(2.) Alterations or additions to legal nonconforming principal structures or portions of legal nonconforming principal structures located less than the pre-existing legal setback of the parent plat, which result in altering the exterior building envelope, may be permitted provided they meet the following conditions:

- (a.) Any expansion shall be limited to a maximum of one thousand five hundred (1,500) square feet.
- (b.) Expansion may only occur landward on structures less than fifty (50) feet from the OHWM.
- (c.) Expansion may only occur parallel to the shore on structures further than fifty (50) feet from the OHWM.
- (d.) Vertical expansion to twenty-five feet if the structure is located fifty (50) feet from the OHWM.
- (e.) Basements are permitted if enough vertical separation from groundwater exists.
- (f.) Any existing encroachment may be continued in expansion.
- (g.) Mitigation is required pursuant to 3.06(3) a,b,c,d,e and f.
- (h.) All roof or deck runoff must be directed into a groundwater collection and dispersal system approved by the zoning department.
- (i.) Impervious surface limits found in Section 5.14.1(1)(A)(E) and 5.15.1(1)(A)(E)

**Rev 4/16/02**



## **Section 4: Supplemental District Regulations**

### **4.01 HIGHWAY SETBACKS AND VISIBILITY AT INTERSECTIONS**

(1.) Unless otherwise stated in the district regulations, no principal or accessory structure shall be closer to the centerline of any public road than the setback as follows:

- (A.) State and Federal Highways: the minimum setback shall be one hundred ten (110) feet from the centerline of the highway or fifty (50) feet from the edge of the right-of-way, whichever is greater.
- (B.) County Road: the minimum setback shall be seventy-five (75) feet from the centerline of the highway or forty-two (42) feet from the edge of the right-of-way, whichever is greater.
- (C.) All Town Roads (easement or town owned) and Forest Service Roads: the setback shall be sixty-three (63) feet from the centerline of the highway or thirty (30) feet from the edge of the right-of-way, whichever is greater. Private easements or access roads will have a minimum setback of twenty (20) feet from the edge of easement or access road.

(2.) Reduced highway setbacks to those required in (1.) above may be permitted by the zoning administrator where there is an existing pattern of development defined as at least five (5) main or accessory structures within five hundred (500) feet of the proposed site, that are built to less than the required setback. In such cases, the setback shall be the average of the nearest structures on each side of the proposed site. Except that in no case shall the setback be closer than ten (10) feet from the right-of-way. If there are no structures on one side of the proposed site, the setback shall be the average of the nearest structure and the required setback.

(3.) In each quadrant of every street intersection, there shall be designated a visual clearance triangle bounded by the street centerlines and a line connecting them three hundred (300) feet from a state or federal highway intersection, two hundred (200) feet from a county highway, and one hundred fifty (150) feet from a town road or paved forest service road intersection. If two (2) highways of a different class intersect, the greater distance shall apply to both centerlines. Within this triangle, no object over two and one-half (2½) feet in height above these streets shall be allowed, if it obstructs the view across the triangle. Posts or open fences are excluded from this provision. Natural vegetation and agricultural crops shall also be exempt from this provision.

4.01.1 Minimum road frontages for lots and subdivisions shall be as follows:

- (A) State and Federal Highways: three hundred (300) feet of road frontage is required.
- (B) County Highway: two hundred fifty (250) feet of road frontage is required.
- (C) Town and Forest Service Roads, two hundred (200) feet of road frontage is required.
- (D) Private roads shall extend through the property being subdivided to the property line of the adjacent owner.
- (E) A turnaround or cul-de-sac shall measure seventy-five (75) feet in diameter at the road end. If a roadway is extended for further development, the cul-de-sac shall be abandoned and all extraneous property shall revert to adjacent property owners.
- (F) All private road right-of-ways shall measure Sixty-six (66) feet in width. Twenty (20) feet shall be maintained for road bed for access of fire and rescue vehicles. Furthermore, overhanging vegetation shall be cut back to a height of Twenty (20) feet and Ten (10) feet from each side of the road bed to facilitate access for these services.
- (G) Easement roads shall maintain a road bed of Twenty (20) feet in with overhanging vegetation cut back to a height of Twenty (20) feet and Ten (10) feet from each side of the road bed to facilitate access for fire and rescue vehicles.
- (H) That the forest County Zoning Committee shall have the right to approve lesser dimensions than that set forth above in paragraphs A through G during preliminary land division reviews, limited only by contrary regulations imposed by the governmental body having jurisdiction over said road or lot. With respect to County Highways, any lesser dimension approved by the Forest County Zoning Committee shall first be approved by the Forest County Highway Department.

**Rev. 11/16/2004**

### **4.02 ACCESSORY STRUCTURES**



1. The Forest County Zoning Committee may grant a special land use permit for the construction or placement of an accessory structure on property in the shore land setback area under Wis. Stats. 59.692(1)(d), without relation to the principle structure if all of the following apply: Revision 4/24/02 Accessory Structures

- (A) The part of a structure that is nearest to the water is located at least thirty-five (35) feet landward from the ordinary high water mark.
- (B) The total floor area off all the structures in the shore land setback area of the property will not exceed two hundred (200) square feet.
- (C) The structure that is the subject of the request for special land use permit has no sides or has open or screened sides of fifty (50%) percent or more coverage.
- (D) The property owner must implement a plan approved by the Zoning Administrator to preserve or establish a vegetative buffer zone that covers at least seventy (70%) percent of one-half of the shore land setback area nearest to the water.

(2.) Accessory structures attached to residences will have the same setbacks as a residence.

(3.) No accessory structure intended for the purpose of burning fuel to supply an adjacent structure on the same premises with heat or hot water, shall be permitted unless the following conditions are met:

(A.) Structure is twenty (20) feet from accessory structures.

(B.) Structure is fifty (50) feet from a structure for human or habitation.

(C.) Shall not be located in any required street, or lots of less than one (1) acre and two hundred (200) feet in width.

#### **4.03 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT**

IN any district, no more than one (1) principal structure may be erected on a lot unless the lot is large enough to be further subdivided into individual parcels that conform with the district regulations, and so that each principal structure can be situated on its own lot, complying thereon with all necessary setbacks and yards. The side yard requirement may be waived by the zoning administrator in cases involving common-wall construction, or for cases that will remain coordinated via condominium ownership. PUD and/or CD regulations are covered in Section 15.

#### **4.04 EXCEPTIONS TO HEIGHT LIMITATIONS**

The height limitations contained in this ordinance do not apply to spires, wind or solar power collectors, belfries, cupolas, antennas, water tanks, ventilators, or other attached structures usually required to be placed above the roof level and not intended for human occupancy. Other structures may exceed height limitations given in district regulations upon receipt of a conditional-use permit for this purpose. (See Section 16.)

##### **4.04.1 SETBACK FOR WIND AND METEOROLOGICAL TOWER**

A setback to any property line, easement or right of way of 1-1/4 times the total height of a wind or meteorological tower is required for safety unless a topple easement is secured from adjacent landowners prior to construction. **(Rev. 11/12/08)**

#### **4.05 ACCESS TO STRUCTURES**

Each structure served by one (1) or more public utilities or used for human habitation shall have access to a public street, private street, or driveway that allows access for fire protection and utility service vehicles.

#### **4.06 PARKING, STORAGE, AND USE OF RECREATIONAL VEHICLES, MOTOR HOMES, AND CAMPER TRAILERS.**

No one may reside within a recreational vehicle, motor home, or camper trailer longer than thirty (30) days, except in a public or private campground or recreational vehicle park with sanitary dump stations as provided for by State law.

- (1) All recreational vehicles, motor homes or camper trailers left on private property more than thirty (30) days shall comply with the general requirements of Section 24.05 of the Forest County Sanitary Ordinance.
  - a. Recreational vehicles, motor homes or camper trailers in storage adjacent to the owner's home are exempt from these requirements.
- (2) All recreational vehicles, motor homes or camper trailers located on private property must secure a permit from the Forest County Zoning Office demonstrating compliance with the Forest County Sanitary Ordinance and the terms of the Forest County Zoning Ordinance.
- (3) All recreational vehicles motor homes or camper trailers must be kept in good repair.
- (4) All recreational vehicles, motor homes or camper trailer sites must be kept clean and free of weeds, junk or discarded materials.

Rev 4/24/02

#### **4.07 VEHICLE STORAGE**

No more than two (2) motor vehicles without current license plates may be stored in residential districts, unless it is completely screened from view from the adjoining property and public view.

#### **4.08 MINIMUM FLOOR AREA FOR RESIDENCES**

No dwelling unit shall have less than seven hundred twenty (720) square-feet of habitable floor area.

- (1.) Single-width manufactured mobile homes qualified as HUD-Certified shall not have less than fourteen (14) feet of width as shipped from the factory.
- (2.) All residences other than single width HUD-Certified units shall have a width of not less than twenty (20) feet on a side.
- (3.) All manufactured homes shall have a pitched roof.
- (4.) That all foundations upon which the manufactured home rests shall be permanent and fully enclosed. **Rev 4/24/02**

#### **4.09 RIGHT-OF-WAYS FOR UTILITIES**

Distribution lines or below ground pipelines, transportation corridors, and recreational trails are permitted uses in any district. This does not apply to transmission lines, pipelines, pumping stations, or any other use specifically listed as a conditional use anywhere in this ordinance.

##### **4.09.01 Telecommunications/Electronic switching equipment structure no larger than 12' x 22' is permitted in all districts subject to aesthetic:**

**Aesthetics, may only constitute grounds from prohibiting the use if such will substantially depreciate the value of property in the neighborhood or impose a visual effect upon neighbors or passersby which is clearly obnoxious to the prevailing taste of the municipality. In all cases, the Town Board in which the proposed use is to be located shall serve as the Aesthetic Review Board.**

#### **4.10 SOLAR RIGHTS**

No structure or vegetation may be placed in a way that significantly interferes with another property owner's ability to use solar powered heating or cooling equipment or structures.

#### **4.11 FILLING**

Filling may be permitted provided the fill material:

- (1.) Shall be suitable for its intended use, no fill intended for supporting structures shall consist of junk, wood, sawdust, paper, tires, solid waste, muck, peat, or any similar materials which could cause subsidence.
- (2.) Fill material is protected from erosion so as not to cause siltation of adjacent lands or navigable waters. The use of a temporary ground cover or other conservation practices such as sediment catch basin or diversion terrace may be required in order to prevent erosion.
- (3.) Shall rest on a firm bottom and be stabilized according to accepted engineering standards.
- (4.) Shall not alter the drainage from and onto adjacent lands so as to create significant harm.
- (5.) Shall not, in any manner, alter the course of a waterway on property belonging to other than the applicant.
- (6.) Shall, where applicable, meet the requirements of state or federal agencies also having jurisdiction, such as the Wisconsin Department of Natural Resources, and the U.S. Army Corps of Engineers.
- (7.) No fill permit will be issued until all applicable permits have been received from state and federal agencies.

#### **4.12 GRADING**

Grading of an area may be permitted provided that:

- (1.) The smallest amount of bare ground shall be exposed for the shortest time feasible and permanent ground cover shall be established as soon as practical.
- (2.) Precautions shall be taken to prevent erosion and sedimentation through the use of silting basins, diversion, terraces, or similar practices used individually or in combination where circumstances warrant such. "Silt fences" consisting of silt retaining fabric staked vertically to the ground and around the down gradient perimeter of the grading activity shall be buried two (2) inches and be presumed necessary in all cases unless specifically exempted in writing by the zoning administrator. Bales of hay or straw placed behind silt fences for maximum protection are recommended.
- (3.) A land use permit as provided for in Section 20.03.1 shall be required for grading an area in excess of five thousand (5,000) square feet, except in the General Rural (GR) District a permit would be required for grading an area in excess of ten thousand (10,000) square feet.
- (4.) No grading permit will be issued until all applicable permits have been received from state and federal agencies.

#### **4.13 FENCES rev. 8/15/06**

Fences will be permitted on the property line provided it is maintenance free. All other types of fences will have a setback of one (1) foot except that no fence shall be located closer than two (2) feet to any right-of-way. On the side and rear yard, the height shall not exceed six (6) feet and six inches. In the street yard, fences shall be an open type (50% or less opaque) and shall not exceed a maximum height from the ground of four (4) feet. In those cases where the yard is a waterfront yard, fences located between the water yard setback line (75 feet) and the ordinary high water mark, shall be an open type and shall not exceed a maximum height from the ground of four (4) feet. The remaining yard shall comply with the above standards for side yards and street yards.

**4.13.01 Security fences are permitted on the property lines if maintenance free, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or chain-link fencing. Except in Shore Land areas water yard fencing requirements apply in the seventy-five (75) feet setback areas.**

#### **4.14 OUTDOOR LIGHTING**

Outdoor lighting installations shall be permitted in all yard areas, but no closer than three (3) feet to an abutting property line and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

#### **4.15 RESTRICTIVE COVENANTS**

Restrictive covenants, or deed restrictions, are private contractual covenants that limit land use. Restrictions are placed on the property by affirmative action of the owner of the property (usually the initial developer). "These restrictions are for the benefit of the property with an intent to enhance the value of the real property." Restrictive covenants affect subsequent owners of the real property usually for a stated term and for any extensions. Enforcement of restrictive covenants is the responsibility of participants of the property covered by the restrictions.

**The purpose of the zoning department is to ensure compliance with the Forest County Zoning Ordinance, not to enforce private restrictions.**

#### **4.16 LAND DIVISION REVIEW**

416.1 Forest County shall review, pursuant to Section 236.45, *Wis. Stats.*, all land divisions creating parcels or structure sites of five (5) acres or less, these will require a certified survey or a plat. All subdivisions fronting on State or Federal Highways require Department of Transportation approval as well as County approval. In such a review the following factors shall be considered:

- (1.) Hazards to the health, safety, or welfare of future residents.
- (2.) Proper relationship to adjoining areas.
- (3.) Public access to streets and navigable waters, as required by law.
- (4.) Adequate storm drainage facilities.
- (5.) Conformity to state law and administrative code provisions.
- (6.) Protection of Shore Land areas of streams, flowages, rivers, ponds, and lakes of fifty (50) acres or less by requiring larger lot sizes. Minimum frontages of two hundred (200) feet, two hundred (200) feet at structure line and forty thousand (40,000) square feet. A structure setback of seventy-five (75) feet from OHWM. All other Shore Land requirements apply.

#### **416.2 Requirements for certified survey approval:**

- (1.) Property owner's name.
- (2.) General location: (1/4 , 1/4 Govt. Lot-Lot-Sec.-Town-Range.)
- (3.) Title: Certified Survey Map No. \_\_ Vol. \_\_ Page \_\_.
- (4.) Basis for bearing statement.
- (5.) North Arrow.
- (6.) Ties to the U.S. Public Land System corner by bearing and distance. Identify U. S. Public Land System lines: (section, forty, etc.).
- (7.) Legend identifying all placed or found monuments in accordance with *Wis. Stats.* 236.
- (8.) Graphic scale – not to exceed five hundred (500) feet to an inch.
- (9.) Lot number with area in square feet for each lot, -AND-show existing buildings -AND- existing private sewage systems.
- (10.) Identify all adjoining lands; (not platted, CSM, subdivision, etc.)

- (11.) Show high-water mark of any water body.
- (12.) Meander line bearing and distance.
- (13.) Bearing and distance from meander line to high-water line.
- (14.) Show “RECORDED AS” bearings and distances if different.
- (15.) Bearing and distances of external boundary lines.
- (16.) Bearing and distances of interior lot lines.
- (17.) Show adjacent streets and right-angle widths.
- (18.) Curve information – on curve or in table.
  - (A.) Radius                      (D.) Central Angle
  - (B.) Chord Bearing          (E.) Arc Length
  - (C.) Chord Bearing          (F.) Tangent Bearing
- (19.) Curve Identifier.
- (20.) Surveyor’s Certificate. Owner’s Certificate or Mortgagee’s Certificate (if applicable).
- (21.) Seal of Land Surveyor responsible for the survey and map.
- (22.) Applicable COMM. 85 *Wis. Admin. Code* information.

#### **4.17 ENCROACHMENTS**

Encroachments and property line disputes are a civil matter and shall be handled first in court to determine proof of property lines. This establishes if a violation of the *Forest County Zoning Ordinance* has occurred. When a violation is established, the Forest County Zoning Office will proceed to enforce the applicable section of County Ordinance.

#### **4.18 COMPLAINTS**

Zoning complaints will be filed in writing and signed on forms provided in the Zoning Office.

#### **4.19 WELL AND SANITARY REQUIREMENTS**

The Forest County Private Sewage System Ordinance and Commerce Plumbing Codes shall apply to all of Forest County for the preservation and enhancement of water quality.

(1.) Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812, *Wis. Adm. Code*.

(2.) Where a public sewage collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by a private sewage system ordinance adopted by the county under Section 59.70(5), *Wis. Stats*.

(3.) One soil test boring shall be required and on file in the Forest County Zoning Office on each vacant lot and each new lot within a subdivision. Evaluations of existing private sewage disposal systems shall be required on systems ten (10) years or older prior to sale. The systems not passing the sanitary evaluation shall be brought up to code. These provisions were not included in the Forest County Private Sewage System Ordinance. This requirement shall be made mandatory by this ordinance.

## **5.00 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, AND TITLE**

### **5.01 STATUTORY AUTHORIZATION**

This ordinance is adopted under the authority of Wisconsin Statutes:

Section 59.69 – General County Planning And Zoning Authority.

Section 59.692 – Duty To Adopt Shore Land Zoning Imposed On

Counties.  
Section 59.694 – County Board Of Adjustment Authority,  
Composition And Duties.  
Section 87.30 – DNR Procedures To Adopt Shore Land Zoning  
For Noncompliant County.  
Section 81.31 – General Program Objectives And Authority For  
All Counties, Towns, Cities, And Villages To  
Adopt And Administer Shore Land Zoning.  
Section 236.45 – Local Subdivision Regulation.  
Section 281.31 – Navigable Waters Protection Law.  
NR 115 – (*Wisconsin Administrative Code*)  
State Shore Land Zoning Standards For Counties NR 116 – (*Wisconsin Administrative Code*)  
Wisconsin Flood Plain Management Program.

## **5.02 FINDING OF FACT**

Uncontrolled use of the Shore Lands and pollution of the navigable waters of Forest County would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control structure sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Forest County, Wisconsin. Given high levels of existing development on some water bodies, increased pressure for development of Shore Lands on many others, and the varied development, it is necessary that classes of water bodies meet certain standards more restrictive than the minimum standards required by state law in order to fully achieve the purposes of this ordinance.

## **5.03 PURPOSE**

For the purpose of promoting the public health, safety, convenience, habitat, environmental concerns, and welfare. This ordinance has been established too:

**5.03.1** Further the maintenance of safe and healthful conditions, habitat, environmental concerns, and prevent and control water pollution through:

- (1.) Limiting structures to those areas where soil and geologic conditions will provide a safe foundation.
- (2.) Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities.
- (3.) Controlling filling and grading to prevent serious soil erosion problems.

**5.03.2** Protect spawning grounds, fish and aquatic life through:

- (1.) Preserving wetlands and other fish and an aquatic habitat.
- (2.) Regulating pollution sources.
- (3.) Controlling shoreline alterations, dredging, and lagooning.
- (4.) Shore Land buffer standards to limit cumulative impacts to an aquatic life habitat.
- (5.) Regulating re-vegetation of Shore Land buffer zone through mitigation to at least sixty (60%) percent of its pre-disturbed state.

**5.03.3** Control structure sites, placement of structures, and land use through:

- (1.) Separating conflicting land uses.
- (2.) Prohibiting uses detrimental to the Shore Land area.
- (3.) Setting minimum lot sizes and widths.
- (4.) Regulating side yards and structure setbacks from waterways.

**5.03.4** Preserve shore cover and natural beauty through:

- (1.) Restricting the removal of natural shore cover.

- (2.) Preventing shoreline encroachment by structures.
- (3.) Controlling Shore Land excavation and other earth-moving activities.
- (4.) Regulating the use and placement of structures. Requiring boathouses to be treated as a structure and not exempt from the seventy-five (75) feet setback.
- (5.) Shore Land buffer standards to limit cumulative impacts to natural beauty and shore cover.

#### **5.04 TITLE**

Section 5: Shore Land Zoning Ordinance Regulations  
Lake Development (SL) District

#### **5.05 GENERAL PROVISIONS**

##### **5.05.1 Areas To Be Regulated**

Areas regulated by this ordinance shall include all the lands, referred to herein as Shore Lands, in the unincorporated areas of Forest County which are:

##### **5.05.2 Lakes, Ponds, and Flowages within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds, or flowages.**

The above mentioned waters shall be presumed to be navigable in Forest County if they are listed in the Wisconsin Department of Natural Resources publication *Surface Water Resources of Forest County* or are shown on United States Geological Survey quadrangle maps or other zoning base maps.

##### **5.05.3 Rivers and Streams**

Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the flood plain, whichever distance is greater. Rivers and streams in Forest County shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Flood hazard boundary maps, flood insurance rate maps, flood boundary flood way maps, county soil survey maps or other existing county flood plain zoning maps shall be used to delineate flood plain areas.

**5.05.4** Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate local office of the Department of Natural Resources for a final determination of navigability or ordinary high-water mark.

**5.05.5** Under Section 144.26 (2.)(m.), *Wis. Stats.*, notwithstanding any other provision of law or administrative rule promulgated thereunder, this Shore Land zoning ordinance does not apply to lands adjacent to farm drainage ditches if:

- (1.) Such lands are not adjacent to a natural navigable stream or river.
- (2.) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (3.) Such lands are maintained in nonstructural agricultural use.

#### **5.06 SHORE LAND ZONING MAPS**

The maps designated below are hereby adopted and made part of this ordinance. They are on file in the office of the zoning administrator for Forest County.

- (1.) Most recent United States Geological Survey Quadrangle Maps for Forest County in effect on date of publication.
- (2.) Wisconsin Wetland Inventory Maps For Forest County in effect on date of publication.
- (3.) Flood plain zoning maps identified as FEMA Flood Hazard Boundary Map in effect on date of publication.

#### **5.07 COMPLIANCE**

The use of any land or water, the size, shape, and placement of lots, the use, size, type, and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of Shore Land vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state, or federal regulations. See Section three (3.0) for standards applicable to nonconforming uses. Structures and signs shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders, and contractors are responsible for compliance with the terms of this ordinance.

## **5.08 MUNICIPALITIES AND STATE AGENCIES REGULATED**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply when Section 13.48(13), *Wis. Stats.*, applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Section 30.12(4)(a.), *Wis. Stats.*, applies.

## **5.09 ABROGATION AND GREATER RESTRICTIONS**

The provisions of this section supersede all the provisions of any county zoning ordinance adopted under Section 59.69, *Wis. Stats.*, which relate to Shore Lands.

(1.) This section of the Forest County Zoning Ordinance shall not require approval or be subject to disapproval by any town or town board. Section 59.69(2)(a.), *Wis. Stats.*

(2.) If an existing town ordinance relating to Shore Lands is more restrictive than this section or any amendments thereto, the town ordinance supersedes to the extent of the greater restrictions but not otherwise.

## **5.10 PROVISIONS**

The provisions of the Forest County Zoning Ordinance are hereby incorporated in these provisions and shall apply to the Shore Land areas.

### **5.10.1 Interpretation**

In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a standard in ch. NR 115, *Wis. Adm. Code*, and where the ordinance provision is unclear, the provision shall be interpreted in light of the ch. NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

## **5.11 WATERFRONT ACCESS**

### **5.11.1 Water Access Lots**

General Restrictions:

(1.) Water access lots shall not be allowed on lakes and ponds of less than fifty (50) acres.

(2.) No pyramiding as defined herein shall be permitted on any lands fronting on a water body except as may be specifically permitted accessory to a marina or resort, and which may be allowed under the terms of a conditional-use permit for a planned unit development. There will be one access lot for every three (3) back lots created, (where access is being provided to a water body), after adoption of this ordinance.

(3.) Mainland access for every two (2) lots developed on islands.

(4.) Buffer Area:

Each water access lot shall include an unmowed buffer area along each side lot boundary. Each buffer width shall be a minimum of twenty-five (25) feet. Water access lot buffers may include wetlands. The remaining lot width located between the buffers shall not include any wetlands. Buffer area includes thirty-five (35) feet from OHWM and landward. No mow in the buffer area except in the thirty (30) foot-view corridor.

(5.) Improvements on a water access lot are limited to the following:

(A.) A driveway onto the access lot is allowable.

(a.) Driveway shall not be closer than one hundred (100) feet from the OHWM.

(b.) Driveway shall not be greater than twenty (20) feet in width.

(c.) In addition to the width of the driveway, parking spaces are allowed on the access lot but only limited to equal the number of units plus one (1) additional space.

(B.) A single (1) opening thirty (30) feet in width is permitted at the water's edge. Lots having two hundred (200) feet of frontage or more shall not have adjoining openings, a thirty-five (35) foot buffer area shall be in place between each opening on larger lots. Measured along water body.

(C.) A path four (4) feet maximum is allowed to the shoreline opening.

**(D.)The minimum width of an access lot shall be one hundred (100) feet measured at the lot's narrowest point.**

#### **5.11.2 Waterfront Access Easements**

(1.) Except as authorized by *Wis. Stats.* 30.131, no easements may be conveyed to a non-riparian landowner allowing access to water bodies or for any other purposes.

(2.) Existing easements are to the extent allowed by state law.

Note: *Wis. Stats.* 30.133 prohibits the conveyance of any riparian land by easement or similar conveyance after April 9, 1994, except for the right to cross the land in order to have access to the navigable water. *Wis. Stats.* 30.131 permits non-riparians to place certain wharfs or piers into the water if, among other things, it is pursuant to an easement recorded before December 31, 1986. Notwithstanding *Wis. Stats.* 30.133, such easements may be conveyed with the riparian land.

#### **5.11.3 Dock-o-minimums Prohibition**

The sale of mooring sites and berths as a condominium or anything else separate from a dwelling unit on the same Shore Land lot is prohibited.

### **5.12 LIMITED REZONING TO ACHIEVE PLANNED RESIDENTIAL UNIT DEVELOPMENT OR CLUSTER DEVELOPMENT REDUCED LOT SIZES AND SETBACKS (see Section 15 Planned Unit Development and/or Cluster Development Overlay District.)**

#### **5.12.1 Relaxation of Standards through a Variance as defined in Section 21.03.**

In some instances where an individual lot or small tract of land has unique characteristics, such as unique terrain, which would result in unnecessary hardship as defined in Section 21.03, if the owner were required to comply with one or more of the requirements for minimum lot sizes, width and setback, the Board of Adjustment may grant a variance. In other instances where larger areas are involved, the appropriate method for seeking a relaxation of the same minimum standards is by rezoning to establish a Planned Unit or Cluster Development Overlay (see Section 15).

#### **5.13 SANITARY REGULATIONS IN SHORE LAND AREA**

The Forest County Private Sewage System Ordinance and Commerce Plumbing Codes shall apply for the preservation and enhancement of water quality.

#### **SHORE LAND SETBACKS**

**(Setbacks are measured from any part of the structure, e.g., foundation, patio, stoop, porch, etc.) (OHWM means Ordinary High-Water Mark)**

#### **LAKES AND FLOWAGES OVER FIFTY (50) ACRES (REV.02/17/02)**

### **5.14 DIMENSIONS OF STRUCTURE SITES AND REQUIREMENTS FOR WATERFRONT PROPERTIES**

#### **5.14.1 Lots Not Served By Public Sanitary Sewer**

(1.) Minimum Requirements:

(A.) Minimum lot requirements:

- (a.) Minimum lot area shall be twenty thousand (20,000) square feet or more to provide enough buildable land for access drive, structures, required yards, and sanitary system.
- (b.) Minimum lot width at structure setback line shall be one hundred (100) feet.
- (c.) Minimum of one hundred (100) feet of frontage the OHWM.
- (d.) Minimum of one hundred (100) feet of frontage at an access point to lot, (i.e., town road, easement, private drive, highway) unless a lesser dimension is approved by the Forest County Zoning Committee during a preliminary land division review. (Rev. 01/15/05)
- (e.) Maximum twenty (20%) percent lot coverage (impervious surface area).

(B.) Residence setbacks and residence requirements:

- (a.) Side yard setbacks each shall have a minimum of fifteen(15) feet from lot line to any part of structure.
- (b.) A shore yard setback shall have a minimum of seventy-five (75) feet from any part of the structure to the closest point of OHWM.



- (c.) Highway setbacks apply. (See Section 4.01.)
  - (d.) Minimum of seven hundred twenty (720) square feet of habitable floor area, as measured outside of wall to outside of wall.
  - (e.) Height restriction of thirty-five (35) feet measured from the lowest exposed point of the structure to the peak. Rev. 11/03
  - (f.) Five (5) feet from a septic tank/holding tank.
  - (g.) Twenty-five (25) feet from disposal (drain) field if residence has a basement.
  - (h.) Fifteen (15) feet from disposal (drain) field if residence is built on a slab or crawl way/space.
- (C.) Accessory Structure (garage, storage, etc.)
- (a.) Side yard setbacks each shall have a minimum of seven (7) feet, six (6) inches from lot line to any part of structure. (For accessory structures attached to residences the setback shall be fifteen (15) feet.)
  - (b.) A shore yard setback shall have a minimum of seventy-five (75) feet from any part of structure to the closest point of the OHWM.
  - (c.) Highway setbacks apply. (See Section 4.01.)
  - (d.) Height restriction of twenty-six (26) feet measured from sill plate of structure to peak. Rev. 11/03
  - (e.) Habitation prohibited.
  - (f.) Five (5) feet from a septic tank/holding tank.
  - (g.) Ten (10) feet from disposal (drain) field.

## **Public Sewered Lots**

### **5.14.2 Lots Served By Public Sanitary Sewer**

#### **(1.) Minimum Requirements**

##### **(A.) Minimum lot requirements:**

- (a.) Minimum lot area shall be twenty thousand (20,000) square feet or more to provide enough buildable land for access drive, structures, required yards.
- (b.) Minimum lot width at structure line shall be one hundred (100) feet.
- (c.) Minimum of one hundred (100) feet of frontage at the ordinary high-water mark.
- (d.) Minimum of one hundred (100) feet of frontage at an access point to lot (i.e., town road, easement, private drive, highway), unless a lesser dimension is approved by the Forest County Zoning Committee during a preliminary land division review. (Rev. 02/15/05)
- (e.) Maximum of twenty (20%) percent lot coverage (impervious surface area).

##### **(B.) Residence setbacks and residence requirements**

- (a.) Side yard setbacks each shall have a minimum of ten (10) feet from lot line to any part of habitable structure.
- (b.) Shore yard setback shall have a minimum of seventy-five (75) feet from any part of the structure to the closest point of the OHWM.
- (c.) Highway setbacks apply. (See Section 4.01.)
- (d.) Minimum of seven hundred twenty (720) square feet of habitable floor area, as measured outside of wall to outside of wall.
- (e.) Height restriction of thirty-five (35) feet measured from the lowest exposed point of the structure to the peak. Rev 11/03

##### **(C.) Accessory Structure (garage, storage, etc.)**

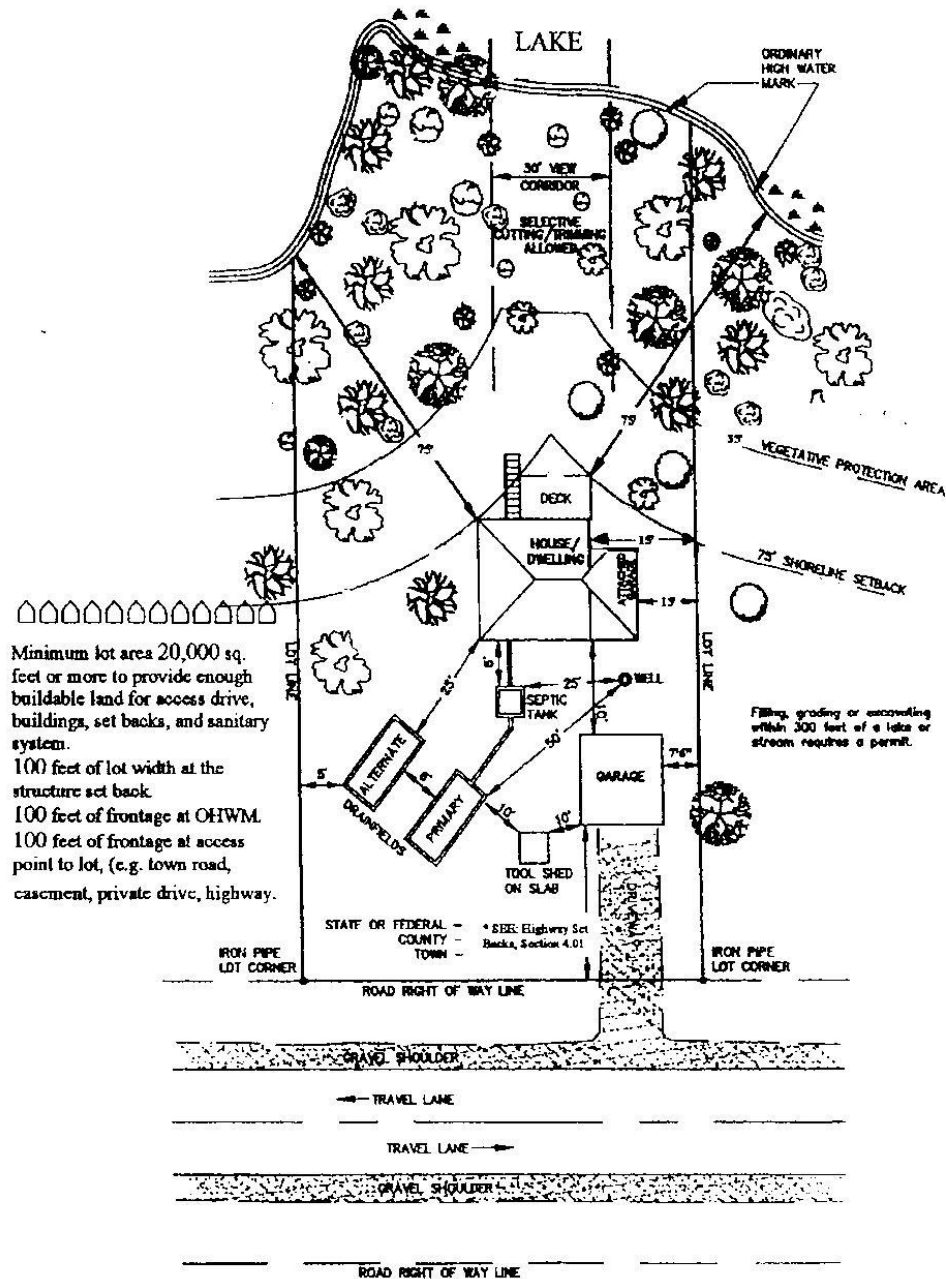
- (a.) All side yard setbacks each shall have a minimum of five (5) feet from lot line to any part of structure. (For accessory structures attached to residences setback shall be ten (10) feet.)
- (b.) Shore yard setback shall have a minimum of seventy-five (75) feet from any part of structure to the closest point of the OHWM.

(c.) Highway setbacks apply. (Se Section 4.01.)

(d.) Height restriction of twenty six (26) feet measured from sill plate of structure to peak. Rev. 11/03

(e.) Habitation prohibited.

# SET BACKS FOR WATER FRONT PROPERTIES "LAKES OVER 50 ACRES"



Minimum lot area 20,000 sq. feet or more to provide enough buildable land for access drive, buildings, set backs, and sanitary system.  
 100 feet of lot width at the structure set back.  
 100 feet of frontage at OHWM.  
 100 feet of frontage at access point to lot, (e.g. town road, easement, private drive, highway).

Filling, grading or excavating within 300 feet of a lake or stream requires a permit.

**LAKES, PONDS and FLOWAGES, FIFTY (50) ACRES OR LESS, RIVERS, AND STREAMS (rev. 02/17/04)**

**5.15 DIMENSIONS OF STRUCTURE SITES AND REQUIREMENTS FOR WATERFRONT PROPERTIES**

**5.15.1** Lots served by a public sanitary sewer and lots not served by a public sanitary sewer.

**(1.)** Minimum Requirements:

**(A.)** Minimum lot requirements:

- (a.)** Minimum lot area shall be forty thousand (40,000) square feet or more to provide enough buildable land for access drive, structures, required yards, and sanitary system.
- (b.)** Minimum lot width at structure shall be two hundred (200) feet.
- (c.)** Minimum of two hundred (200) feet of frontage at the OHWM.
- (d.)** Minimum of two hundred (200) feet of frontage at access point to lot, (i.e., town road, easement, private drive, highway), unless a lesser dimension is approved by the forest County Zoning Committee during a preliminary land division review. (Rev. 02/15/05)
- (e.)** Maximum twenty (20%) percent lot coverage (impervious surface area).

**(B.)** Residence setbacks and residence requirements:

- (a.)** Side yard setbacks each shall have a minimum of fifteen (15) feet from lot line to any part of structure.
- (b.)** Shore yard setback shall have a minimum of seventy-five (75) feet from any part of structure to the closest point of OHWM.
- (c.)** Highway setbacks apply. (See Section 4.01.)
- (d.)** Minimum of seven hundred twenty (720) square feet of habitable floor area, as measured outside of wall to outside of wall.
- (e.)** Height restriction of thirty-five (35) feet measured from the lowest exposed point of the structure to the peak.

**Rev 11/03**

- (f.)** Five (5) feet from septic tank/holding tank.
- (g.)** Twenty-five (25) feet from disposal (drain) field if residence has a basement.
- (h.)** Fifteen (15) feet from disposal (drain) field if residence is built on a slab or crawl way/space.

**(C.)** Accessory Structure (garage, storage, etc.)

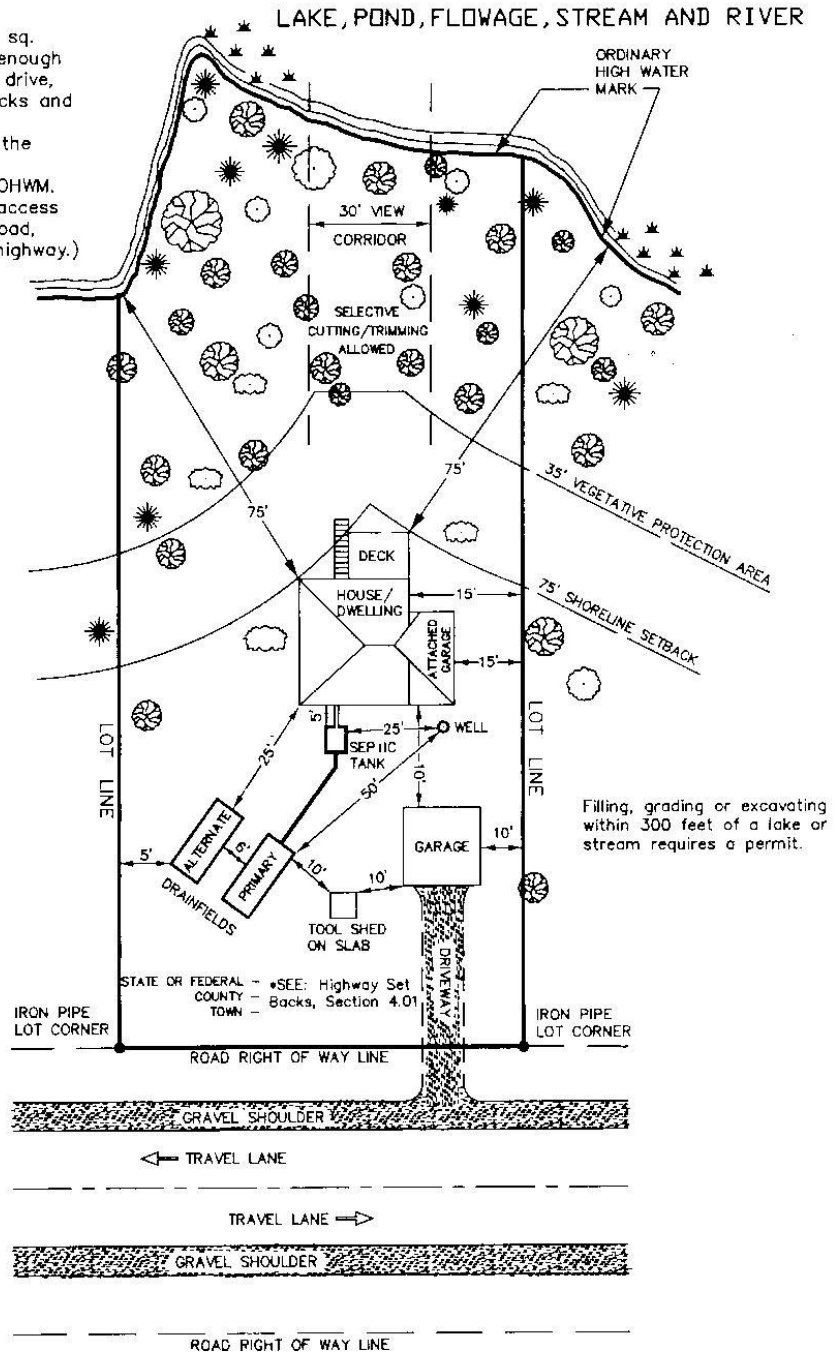
- (a.)** Side yard setbacks each shall have a minimum of ten (10) feet from lot line to any part of structure.
- (b.)** Shore yard setback shall have a minimum of seventy-five (75) feet from any part of structure to the closest point of OHWM.
- (c.)** Highway setbacks apply. (See Section 5.01.)
- (d.)** Height restriction of twenty six (26) feet measured from sill plate of structure to peak. **Rev 11/03**
- (e.)** Habitation prohibited.
- (f.)** Five (5) feet from septic tank/holding tank.

(g.) Ten (10) feet from disposal (drain) field.

# SET BACKS FOR WATER FRONT PROPERTIES

## "LAKES AND PONDS 50 ACRES OR LESS, FLOWAGES, RIVERS AND STREAMS"

Minimum lot area 40,000 sq. feet or more to provide enough buildable land for access drive, buildings, required set backs and sanitary system.  
200 feet of lot width at the structure set back.  
200 feet of frontage at OHWM.  
200 feet of frontage at access point to lot, (e.g. town road, easement, private drive, highway.)



## **BACK LOTS**

**(LAKES AND FLOWAGES OVER FIFTY (50) ACRES) (rev. 02/17/04)**

### **5.16 DIMENSIONS OF STRUCTURE SITES AND REQUIREMENTS FOR BACK LOTS IN THE SHORE LAND LAKE DEVELOPMENT DISTRICT**

**5.16.1** Lots **Not Served** by Public Sanitary Sewer and Lots Served by a Public Sanitary Sewer.

#### **(1.) Minimum Requirements**

##### **(A.) Minimum lot requirements:**

- (a.)** Minimum lot area shall be two (2) acres or more, provide enough land for access drive, structures, required yards, and sanitary system.
- (b.)** Minimum lot width at structure line shall be two hundred (200) feet.
- (c.)** Minimum amount of frontage at access point to a lot (i.e., town road, easement, private drive, highway). (See Section 4.01.1.)
- (d.)** Maximum twenty (20%) percent coverage impervious surface area).

##### **(B.) Residence setbacks and residence requirements**

- (a.)** Side yard setbacks each shall have a minimum of (15) feet from lot line to any part of structure.
- (b.)** Rear yard setback shall be a minimum of fifteen (15) feet from lot line to any part of the structure.
- (c.)** Highway setbacks apply. (See Section 4.01.)
- (d.)** Minimum of 720 square feet of habitable floor area, as measured outside of wall to outside of wall.
- (e.)** Height restriction of thirty-five (35) feet measured from the lowest exposed point of the structure to the peak. **Rev 11/03**
- (f.)** Five (5) feet from septic/holding tank.
- (g.)** Twenty-five (25) feet from disposal (drain) field if residence has a basement.
- (h.)** Fifteen (15) feet from disposal (drain field) if residence is built on a slab or crawl way/space.

##### **(C.) Accessory Structure (garage, storage, etc.).**

- (a.)** Side yard setbacks each shall have a minimum of seven (7) feet, six (6) inches from lot line to any part of structure.
- (b.)** Rear yard setback shall have a minimum of seven (7) feet, six (6) inches from lot line to any part of structure.
- (c.)** Highway setbacks apply. (See Section 4.01.)
- (d.)** Height restriction of twenty six (26) feet measured from sill plate of structure to peak. **Rev 11/03**
- (e.)** Five (5) feet from septic/holding tank.
- (f.)** Ten (10) feet from disposal (drain) field.
- (g.)** Habitation prohibited.

## **BACK LOTS**

**(LAKES, PONDS AND FLOWAGES, FIFTY (50) ACRES OR LESS) RIVERS, AND STREAMS (rev. 02/17/04)**

### **5.17 DIMENSIONS OF STRUCTURE SITES AND REQUIREMENTS FOR BACK LOTS IN THE**

## SHORE LAND LAKE DEVELOPMENT DISTRICT

### **5.17.1 Lots Not Served by Public Sanitary Sewer and Lots Served by a Public Sanitary Sewer.**

#### **(1.) Minimum Requirements**

##### **(A.) Minimum lot requirements:**

- (a.)** Minimum lot area shall be three (3) acres, or more, to provide enough land for access drive, structures, required yards and sanitary system.
- (b.)** Minimum amount of frontage at access point to a lot (i.e., town road, easement, private drive, (highway)). (See Section 4.01.1.)
- (c.)** Maximum thirty (30%) percent lot coverage (impervious surface area).

##### **(B.) Residence setbacks and residence requirements:**

- (a.)** Side yard setbacks each shall have a minimum of twenty (20) feet from lot line to any part of structure.
- (b.)** Rear yard setback shall have a minimum of twenty (20) feet from lot line to any part of structure.
- (c.)** Highway setbacks apply. (See Section 4.01.)
- (d.)** Minimum of seven hundred twenty (720) square feet of habitable floor area, as measured outside wall to outside wall.
- (e.)** Height restriction of thirty-five (35) feet measured from the lowest exposed point of the structure to the peak. **Rev 11/03**
- (f.)** Five (5) feet from septic/holding tank.
- (g.)** Twenty-five (25) feet from disposal (drain) field if residence has a basement.
- (h.)** Fifteen (15) feet from disposal (drain) field if residence is built on a slab or crawl way/space.

##### **(C.) Accessory Structure (garage, storage, etc.)**

- (a.)** Side yard setbacks each shall have a minimum of ten (10) feet from lot line to any part of structure.
- (b.)** Rear yard setback shall have a minimum of ten (10) feet from lot line to any part of structure.
- (c.)** Highway setbacks apply. (See Section 4.01.)
- (d.)** Height restriction of twenty-six (26) feet measured from sill plate of structure to peak. **Rev 11/03**
- (e.)** Five (5) feet from septic/holding tank.
- (f.)** Ten (10) feet from disposal (drain) field.
- (g.)** Habitation prohibited.

## **5.18 SUBSTANDARD LOTS**

### **5.18.1 Substandard Lots Served by a Public Sanitary Sewer**

**(1.)** A substandard lot served by a public sanitary sewer which is at least seven thousand five hundred (7,500) square feet in area and is at least fifty (50) feet in width at the structure setback line and at least fifty (50) feet in width at the OHWM may be used as a structure site for a single-family dwelling upon issuance of a zoning permit, if it meets all of the following requirements:

- (A.)** Such use is permitted in the zoning district.
- (B.)** The lot was on record in the county register of deeds office prior to the effective date of this ordinance.
- (C.)** The lot was in separate ownership from abutting lands prior to the effective date of this ordinance. If abutting lands and substandard lot shall not be sold or used without full compliance with the terms of this ordinance, including minimum area and width requirement found in Sections 5.14, 5.15, 5.16, 5.17, and Section Three (3).



- (D.) All other dimensional requirements of this ordinance (including setbacks) shall be in compliance with the Zoning Ordinance.

#### **5.18.2 Substandard Lots Not Served By Public Sanitary Sewer**

A substandard lot not served by public sanitary sewer which is at least ten thousand (10,000) square feet in area, and at least sixty-five (65) feet in width at the structure setback line, and at least sixty-five (65) feet in width at the OHWM, may be used as a structure site for a single-family dwelling upon issuance of a zoning permit by the zoning administrator if it meets all of the following requirements:

- (1.) Such use is permitted in the zoning district.
- (2.) The lot was on record in the county register of deeds office prior to the effective date of this ordinance.
- (3.) The lot was in separate ownership from abutting lands prior to the effective date of this ordinance. If abutting lands and the substandard lot were owned by the same owner at the effective date of this ordinance, the substandard lot shall not be sold or used without full compliance with this ordinance, including minimum area and width requirements found in Sections 5.14.1 and Section Three (3) of this ordinance.
- (4.) All other dimensional requirements of this ordinance (including setbacks) will be complied with.

#### **5.18.3 Other Substandard Lots ~~deleted rev 2/02~~**

#### **5.18.4 Setbacks From The Water**

(1.) All new structures shall be setback a minimum of seventy-five (75) feet from the ordinary high-water mark, unless a pattern of development exists. However, no structure shall be built closer to the ordinary high water mark than the principal structure on each adjacent lot to the proposed construction. **Rev 4/24/02**

(2.) Fertilizing of Shore Yards Prohibited. Within seventy-five (75) feet required setback from the OHWM, lawn, garden, farm, and forestry fertilizers shall not be applied to the soil surface unless specifically free of nitrates, phosphates, and lake damaging chemicals.

(3.) Piers, boat hoists, stairways, walkways, lifts, and open fences which may require a lesser setback from OHWM. On properties with steep, erodible banks, or with wetlands covering the shore, the construction of a stairway or walkway may be necessary to provide access to the water. When properly placed and designed, such structures should be permitted within the seventy-five (75) foot setback when the following conditions are met:

- (A.) There are no other locations or facilities on the property which allow adequate access to a pier, boat hoist, or existing boathouse. Only one stairway or lift is allowed, not both, except where there is an existing stairway and the lift will be mounted to or is immediately adjacent to the existing stairway.
- (B.) Such structures shall avoid environmentally sensitive areas.
- (C.) Vegetation which stabilizes slopes or screens structural development from view shall not be removed.
- (D.) Structures should be colored and screened by native, non-invasive vegetation so as to be inconspicuous when viewed against the shoreline.
- (E.) Canopies, roofs, and sides are prohibited. Open railings may be provided where required for safety.
- (F.) A maximum width of four (4) feet (outside dimensions) is allowed for stairways, walkways, and lifts.
- (G.) Landings are allowed where required for safety purposes and shall not exceed thirty (30) square feet. Attached benches, seats, tables, etc. are prohibited.
- (H.) Stairways, walkways, and lifts shall be supported on piles or footings. Any filling, grading, or excavation that is proposed must meet the requirements of Sections 4.11 and 4.12 of this ordinance.

#### **5.19 ACCOMMODATIONS FOR DISABLED PERSONS**

Where strict interpretation of this ordinance would effectively deny disabled persons equal housing opportunity, and where the property does not meet the criteria for a variance under Section 21.03 of this ordinance, the Zoning Board of Adjustment may grant a Special Exception Permit to provide reasonable accommodations as required by the Federal Americans With Disabilities Act, the Federal Fair Housing Act, and the Wisconsin Fair Housing Act. The permit shall be subject to the following conditions:

(1.) Only the minimum relaxation of dimensional, density, or other standards needed to provide reasonable accommodation shall be approved.

(2.) No use, structure, or other relaxation of standards shall be approved that would violate or undermine the stated purposes of this ordinance.

(3.) The Special Exception Permit will expire once the property is no longer primarily used by a disabled person. Subsequent landowners shall be responsible for the removal of any nonconforming structures no longer required by a disabled resident.

## **5.20 REDUCED STRUCTURE SETBACKS**

(1.) A reduced setback to the seventy-five (75) feet setback may be permitted by the zoning administrator where there is an existing pattern of development. Defined as:

(a.) The subject parcel is located in a duly recorded plat, in which other single family residences are in existence at the time of application.

(b.) The subject parcel is not located in a plat but there are at least five (5) habitable structures on adjacent lots to the applicant's lot, within five hundred (500') feet of the proposed structure; which are built to less than the required seventy five (75') foot setback.

(c.) In instances in which (a) applies, the Zoning Administrator must first determine the actual existing setback of each residence in the plat in which the subject parcel is located, and therein calculate the average setback of each such residence. This average setback is then considered to be the pre-existing legal setback for all residences of that plat. However, in no instance shall the setback be reduced to less than forty (40') feet from the OHWM.

(d.) In the event (b) applies, the average setback of the nearest habitable structure on each side of the proposed site, or if there is an existing main structure on only one (1) side, the setback may be reduced to the average of the nearest habitable structure setback and the required setback, but in no case less than forty (40') feet.

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(2.) Additions shall not exceed one-half (½) of the total square footage of the existing structure, or exceed the twenty-five (25) feet height restriction, in the lifetime of that structure. This section does not apply to Decks, Gazebos, Screen Houses, or replacement/placement of a new structure unless it meets the criteria set forth in 3.06.2 (Nonconforming Structure Damaged or Destroyed by Violent Wind, Fire, Vandalism, or Flood). Decks, Gazebos, Screen Houses, or replacement/placement of a new structure do not meet the criteria found in the purpose statement of the ordinance and do not reflect the statutory objectives of Wisconsin's Shore Land Management program and are not allowed under this averaging.

(A.) Other setback reduction may be permitted by the board of adjustment pursuant to the standards of Section 21.03.

(3.) In cases of additions to existing habitable structures with less than seventy-five (75) feet of setback to the OHWM, which structures are therefore nonconforming structures unless built under this section, such additions and all successive additions shall not cumulatively exceed fifty (50%) percent of the value of the structure, as regulated by Section 3.06 Nonconforming Structures. Structures with less than forty (40) feet of setback may only be expanded to the landward side/backside of structure opposite the water side. This applies if any portion of the structure is within forty (40) feet of the OHWM. All nonconforming structure additions shall be landward only.

### **(4.) Exception**

The requirements of Sections 5.14, 5.15, and 5.18.4 shall not apply to wells, mitigation water pipelines or discharge structures, contingency or mitigation facilities, open fences, culverts, bridges, pipes, conduits, water or wastewater, or ceilings pipelines which are either underground or carried on the structure of bridges, roads, railroad tracks or spurs, or gas or electric or other utility lines or poles, constructed as part of development for metallic mining operations for which a permit is issued pursuant to Section 20.03.4 of this ordinance.

## **5.21 REMOVAL OF SHORE COVER**

### **5.21.1 Purpose of Shore Cover Protection**

The purpose of tree and shrubbery cutting regulations applicable to the Shore Land area is to protect scenic beauty, control erosion, and reduce effluent nutrient flow to the Shore Land. These provisions shall not apply to removal of dead, diseased, or dying trees or shrubbery, or to silvicultural thinning upon recommendation of a forester.

(1.) No more than thirty (30) feet in any lot or thirty (30) feet in any one hundred (100) feet, as measured along the ordinary high-water mark (whichever is more restrictive) may be cleared to the depth of the thirty-five (35) feet strip. A thirty-five (35) feet buffer strip will remain between thirty (30) feet openings on larger lots.

(2.) Natural shrubbery shall be preserved and, where removed, it shall be replaced with other natural vegetation equally effective in retarding runoff, preventing erosion, and preserving natural beauty.

(3.) Clear cutting shall be prohibited other than for clearing of an area for the principal structure, detached garage, storage shed, installation of a private septic system, twenty (20) foot wide roadway from a public road, or easement to the rear of the principal structure and the thirty (30) foot cutting described in Section 5.21.1(1.).

(4.) Where logging operations are being conducted adjacent to a waterway there shall remain a border of trees one hundred (100) feet in width back from the ordinary high-water mark along the entire shoreline. Harvesting of trees shall be in accordance with Section 5 Riparian Management Zones of *Wisconsin's Forestry Best Management Practices*.

#### **5.21.2 Paths**

Any path, or passage within the thirty-five (35) foot buffer area shall be constructed to be no greater than four (4) feet in width and installed so as to effectively control erosion and filter runoff.

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#### **5.21.3 Special Cutting Plans**

(1.) As an alternative to Section 5.21.1 Purpose of Shore Cover Protection, a special cutting plan allowing greater cutting may be permitted by the Zoning Committee by issuance of a Shore Land Alteration Permit. In applying for such a permit, the committee shall require the lot owner to submit a sketch of their lot, including the following information: location of parking, gradient of the land, existing vegetation, proposed cutting, and proposed replanting. The committee may grant such a permit only if it finds that such special cutting plan:

(A.) Is in compliance with *Wisconsin's Forestry Best Management Practices*.

(B.) Meets the requirements of Section 3.06.2, (3.), (3. A., B., C., D., E., F.).

(C.) Cutting Plan for Mining Operations

As an additional alternative to Section 5.21.1, a special cutting plan may be approved by the County Board as part of the Mining Operations Permit issued in accordance with Section 20.03.4 of this ordinance.

### **5.22 FILLING, GRADING, LAGOONING, DREDGING, DITCHING, AND EXCAVATING**

**5.22.1** General standards of filling, grading, lagooning, dredging, ditching, or excavating, which does not require a permit under Section 5.26 may be permitted in the Shore Land area provided that:

(1.) It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat including the use of siltation fences unless specifically exempted by the zoning administrator on the permit.

(2.) Filling, grading, lagooning, dredging, ditching, or excavating in a Shore Land/Wetland District meets the requirements of Section 5.30 of this ordinance.

(3.) All applicable federal and state permits are obtained in addition, and prior, to a permit under this ordinance.

(4.) Any fill placed in the Shore Land area is protected against erosion by the use of riprap, vegetative cover, or a bulkhead.

### **5.23 SHORE YARD ALTERATION PERMIT Rev. 4/02**

All shore yard alterations require an approved erosion control plan.

A shore yard alteration permit is required for the construction of structures approved by special zoning permission, filling, grading, or landscaping of an area, walkways, stairs or boatlifts, if located in, on or over steep slopes or rock, saturated and unstable soils or in conjunction with the issuance of a Forest county Land use permit for construction in areas described in 5.23.1(A),(B), and (C) below.

A shore yard alteration permit is required for any dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within three hundred (300) feet of the OHWM of a navigable body of water, or where the goal is the ultimate connection with a navigable body of water.

(1) Except as provided in Section 5.24.1 following and 5.25 hereunder, a Shore Yard Alteration Permit, issued by the Forest County Zoning Office, is required for the filling, grading, landscaping, lagooning, dredging, ditching or excavation of a shore yard in the following circumstances:

(A.) Any filling, grading or landscaping on slopes of more than twenty (20%) percent.

(B.) Filling, grading or landscaping of more than one thousand (1,000) square feet on slopes of twelve to twenty (12% to 20%) percent.

(C.) Alterations on critical slopes of more than thirty-three (33%) percent must present plans to the Forest County Zoning Board For permit approval and may be required to employ the services of professional or experienced contractors to perform all phases of site alteration.

**(2) All permit applications should include, but may not be limited to, the following information:**

- a. Current owners name and address as listed on the Forest County Property Tax Roll.
- b. Description of property as listed on the Forest County Property tax roll.
- c. Location of property and boundaries to the nearest public road including fire number.
- d. The location of surface water and existing drainage patterns.
- e. Existing topography on contour maps of the site at intervals as indicated in the map legend.
- f. Locations of manmade features on or near the site.
- g. Existing elevations in relation to the adjacent body of water.
- h. Proposed erosion control measures during alteration activities and throughout the re-vegetative phase of the project.
- i. Description of the proposed re-vegetation of the altered site.
- j. Contractor information as requested by Forest County Zoning Office.

(3) Shore Yard Alteration Permits shall adhere to guidelines established in Section 4.11, 4.12 and 5.26 of Forest County Zoning Ordinance and follow recommendations described in "Wisconsin Best Management Practices Handbook".

(4) Alterations of more than ten thousand (10,000) square feet require a Chapter 30 permit from the Department of Natural Resources if any area slopes an drains to navigable waterway.

(5) All applicable federal and state permits must be obtained in addition and prior to a permit under this ordinance.

#### 5.24 SOIL CONSERVATION PRACTICES AND AGRICULTURAL DRAINAGE MAINTENANCE

**5.24.1** Soil conservation practices such as tiled terraces, run-off diversions, and grassed waterways used for erosion control shall not require a permit under Section 5.23 when designed and constructed to Soil Conservation Service technical standards.

#### 5.25 AGRICULTURE DRAINAGE

The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:

(1.) The maintenance dredging of farm drainage ditches is limited to reestablishing the original ditch cross-section unless a special exception permit under Section 21.04 is obtained.

(2.) Ditch banks shall be constructed at a slop of two (2) horizontal to one (1) vertical (50% grade) or flatter.

(3.) Ditch banks shall be maintained in a sod cover and free woody vegetation.

(4.) A ten (10) foot wide buffer strip of untilled, un-grazed sod cover shall be maintained adjacent to the ditch bank.

#### 5.26 PERMIT CONDITIONS

In granting a special exception permit under Section 5.23, the Board of Adjustment shall enforce the following, where appropriate, in addition to those provisions specified in Sections 5.26.2 and 5.26.3.

(1.) The smallest amount of bare ground shall be exposed for as short a time as feasible.

(2.) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.

(3.) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.

(4.) Lagoons shall be constructed to avoid fish trap conditions.

(5.) Fill shall be stabilized according to accepted engineering standards.

(6.) Filling shall comply with any local flood plain zoning ordinance and shall not restrict a flood way or destroy the flood storage capacity of a flood plain.

(7.) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical, or flatter, which shall be promptly vegetated, unless bulkheads or riprap are provided.

### **5.30 DESIGNATION**

This district shall include all Shore Lands within the jurisdiction of this ordinance, (excluding point symbols) and which are shown on the Wisconsin Wetland Inventory maps that are adopted and made a part of this section. NR 115 requires counties to regulate all Shore Land wetlands, regardless of size, depicted on Wisconsin Wetland Inventory maps. Updated Inventory maps show all wetlands larger than two (2) acres. Where the wetland as a whole is five (5) acres or larger, but extends across the corporate limits of a municipality, across the county boundary, or across the Shore Land Limits, so that the wetland is not regulated in its entirety by the county.

Wetland water quality, wildlife, and aesthetic functions are more dependent on factors of landscape position, land-use context and surrounding habitat than size. Wetlands smaller than two (2) acres can play critical roles, both individually and cumulatively, in protecting water quality, and providing wildlife habitat and natural beauty. Any size limitation should be based on the feasibility of field delineation, rather than a notion that functions are insignificant below a certain size.

### **5.31 LOCATING SHORE LAND/WETLAND BOUNDARIES**

Where an apparent discrepancy exists between the Shore Land/Wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the Department to determine if the Shore Land/Wetland district boundary as mapped is in error. If Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The zoning administrator shall initiate a map amendment to correct the discrepancy.

### **5.32 PURPOSE**

This overlay district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, and to control structure and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

#### **5.32.1 Permitted Uses**

(1.) The following uses shall be allowed, subject to general Shore Land zoning regulations contained in this ordinance, the provisions of other applicable local state and federal laws:

- (A.) Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling, or excavating except as allowed under Sections 5.23 or 5.26.
- (B.) Hiking, fishing, trapping, hunting, swimming, and boating.
- (C.) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
- (D.) The practice of silviculture, including the planting, thinning, and harvesting of timber.
- (E.) The construction or maintenance of duck blinds

(2.) Uses which do not require the issuance of a zoning permit and may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, only to the extent specifically provided below:

- (A.) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
- (B.) The cultivation of cranberries flooding, dike and dam construction, or ditching necessary for growing and harvesting of cranberries.
- (C.) The maintenance and repair of existing agricultural drainage systems where permissible by *Wis. Stats.* 30.20, including ditching, tiling, dredging, excavating, and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided, that filling is permissible by chapter 30 *Wis. Stats.*, and that dredged spoil is placed on existing spoil banks where possible.

- (D.) The construction or maintenance of piers, docks, or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.
  - (E.) The maintenance, repair, replacement, or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.
- (3.) Uses which require the issuance of a zoning permit under Section 5.23 and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below:
- (A.) The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
    - (a.) The road cannot, as a practical matter, be located outside the wetland.
    - (b.) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in Section 5.33.2.
    - (c.) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use.
    - (d.) Road construction activities are carried out in the immediate area of the roadbed only.
  - (B.) The construction or maintenance of non-residential structures, provided that:
    - (a.) The structure is essential for, and used solely in, conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals, or some other use permitted in the Shore Land /Wetland district.
    - (b.) The structure cannot, as a practical matter, be located outside the wetland.
    - (c.) Such structure is not for human habitation and does not exceed five hundred (500) square in floor area.
    - (d.) Only limited filling or excavating necessary to provide structural support for the structure is authorized.
- (4.) The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
- (A.) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under ch.29, *Wis. Stats.*, where applicable.
  - (B.) Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in Section 5.32.1 (2.), (3.).
  - (C.) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- (5.) The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to the members and the construction or maintenance of railroad lines provided that:
- (A.) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
  - (B.) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in Section 5.33.2.

#### **5.32.2 Prohibited Uses**

Any use not listed in Section 5.40.1, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 5.33 of this section and Section 59.69 (5)(e.), *Wis. Stats.*

### **5.33 REZONING OF LANDS IN THE SHORE LAND/WETLAND DISTRICT**

#### **5.33.1 DNR Notification**

For all proposed text and map amendments to the Shore Lake/Wetland provisions of this ordinance, the appropriate local office of the Department shall be provided with the following:

(1.) A copy of every petition for a text or map amendment to the Shore Lake/Wetland provisions of this ordinance, within five (5) days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance, describing any proposed rezoning of a Shore Lake/Wetland.

(2.) Written notice of the public hearing to be held on a proposed amendment at least ten (10) days prior to such hearing.

(3.) A copy of the county zoning agency's findings and recommendations on each proposed amendment within ten (10) days after the submission of those findings and recommendations to the county board.

(4.) Written notice of the county board's decision on the proposed amendment within ten (10) days after it is issued.

#### **5.33.2 Rezoning Standards**

A wetland, or a portion thereof, in the Shore Land/Wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

(1.) Storm and flood water storage capacity.

(2.) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.

(3.) Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters.

(4.) Shoreline protection against soil erosion.

(5.) Fish spawning, breeding, nursery, or feeding grounds.

(6.) Wildlife habitat.

(7.) Areas of special recreational, scenic or scientific interest, including scarce wetland types.

#### **5.33.3 Rezoning Delayed or Superseded**

If the Department notifies the county zoning agency that a proposed text or map amendment to the Shore Lake/Wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in Section 5.33.2 of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

(1.) "This amendment shall not take effect until more than thirty (30) days have elapsed after written notice of the County Board's approval of this amendment is mailed to the Department of Natural Resources. During the thirty (30) day period the Department of Natural Resources may notify the County Board that it will adopt a superseding Shore Lake ordinance for the county under Section 59.692(6.), *Wis. Stats.* If the Department does so notify the County Board, the effect of this amendment shall be stayed until the Section 59.692(6) adoption procedure is completed or otherwise terminated."

### **5.34 ZONING PERMITS**

Except where another provision of this ordinance specifically exempts certain types of development from this requirement (as in Section 5.32.1(a.) and 20.03.4 Metallic Mining Permits, a zoning permit shall be obtained from the zoning office before any new development (development as defined in Section 23), or any change in the use of any existing structure, or structure, is initiated.

#### **5.34.1 Variances and Special Except Permits**

(1.) The Board of Adjustment created under Section 21 of this ordinance shall have jurisdiction over this section.

### **5.35 CHANGES AND AMENDMENTS**

The County Board may, from time to time, alter, supplement, or change the boundaries of the overlay districts created in this section and the regulations contained in this section in accordance with the requirement of Section 59.69(5), *Wis. Stats.*, ch NR 115, *Wis. Adm. Code* and Section 22 of this ordinance where applicable.

#### **535.1 Wisconsin DNR Notification**

Petitions to change the overlay district boundaries or the regulations of Section 5.00 shall be mailed to the appropriate district office of the Department within five (5) days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate district office of the Department at least ten (10) days prior to the hearing.

**535.2 A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate district office of the Department within ten (10) days after the decision is issued.**

## **Section 5.40 Flood Plain Zoning Regulations (This section has been superseded by the Forest County Floodplain Ordinance)**

### **5.40 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, AND TITLE**

#### **5.40.1 Statutory Authorization**

These regulations are adopted pursuant to the authorization in *Wis. Stats* 61.35 and 62.23, for villages, cities, and towns that adopted village powers and *Wis. Stats*. 59.69, 59.692, 59.694, and 87.30 for counties.

#### **5.40.2 Finding of Fact**

Uncontrolled development and use of the flood plains, rivers, or streams of this county would adversely affect the public health, safety, convenience, general welfare, and impair the tax base.

#### **5.40.3 Statement of Purpose**

To regulate development in flood hazard areas to protect life, health, and property, the County Board does ordain that the purpose of these rules is to:

- (1.) Protect life, health, and property.
- (2.) Minimize expenditures of public monies for costly flood control projects.
- (3.) Minimize rescue and relief efforts, generally undertaken at the expense of the tax-paying public.
- (4.) Minimize business interruptions which usually result in the loss of local incomes.
- (5.) Minimize damage to public facilities within the flood plains such as water mains, sewer lines, streets, and bridges.
- (6.) Minimize the occurrence of future flood blight areas on flood plains.
- (7.) Discourage the victimization of unwary land and home buyers.
- (8.) Prevent increases in regional flood heights that could increase flood damage and may result in conflicts or litigation between property owners.

#### **5.40.4 Title**

These regulations shall be known as the Flood Plain Zoning Regulations for Forest County, Wisconsin.

### **5.41 GENERAL PROVISIONS**

#### **5.41.1 Areas To Be Regulated**

Areas regulated by this ordinance include all areas within the limits of the county that would be covered by the "regional flood" (defined in Section 23) and include "flood plain islands" (defined in Section 23) designated on the official map where emergency rescue and relief routes would be inundated by the regional flood.

#### **5.41.2 Official Map**

The boundary of the flood plain districts including the flood way, flood fringe, and other flood plain districts, are those areas designed as flood plains or A-Zones on the following map: Flood Hazard Boundary Maps prepared by the Federal Emergency Management Agency (FEMA) dated May 8, 1981, and Forest County General Flood Plain Maps prepared



by the Wisconsin Department of Natural Resources, dated September 30, 1990, including the information in the General Flood Plain Determination Report, dated September 1990.

The official flood plain zoning map has been approved by the Department of Natural Resources and the Federal Emergency Management Agency (FEMA), and is on file in the office of the Forest County Zoning Administrator. If more than one map is referenced, the regional flood profiles govern boundary discrepancies according to Section 5.41.4.

#### **5.41.3 Establishment of Districts**

The regional flood plain areas are hereby divided into three districts defined in Section 23.

(1.) The Flood Way District (FW).

(2.) The Flood Fringe District (FF).

(3.) The General Flood Plain District (GFP).

#### **5.41.4 Locating Flood Plain Boundaries**

(1.) Where an apparent discrepancy exists between the location of the outermost boundary of the flood fringe district or general flood plain district shown on the official flood plain zoning map and actual field conditions, the location shall be initially determined by the zoning administrator using the criteria in paragraphs (2.) or (3.) below. Where the zoning administrator finds there is a significant difference between the map and the actual field conditions, the map shall be amended using the procedures established in Section 5.48. Disputes between the zoning administrator and an applicant over the location of the district boundary line shall be settled according to Section 5.47.3(2.).

(2.) Where flood profiles exist, the location of the district boundary line shall be determined by the zoning administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map, and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The zoning administrator shall have the authority to grant or deny a land-use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The zoning administrator shall be responsible for initiating any map amendments required under this section within a reasonable period of time.

(3.) Where flood profiles do not exist, the location of the district boundary line shall be determined by the zoning administrator using the scale appearing on the map, visual on-site inspection, and any available information provided by the Department. Where there is a significant difference between the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the municipal governing body and the Department, the zoning administrator shall have the authority to grant or deny a land-use permit.

#### **5.41.5 Removal of Lands From Flood Plain**

Compliance with the provisions of this ordinance shall not be grounds for removing lands from the flood plain district, unless they are removed by filling to a height of at least two (2) feet above the regional flood elevation, the fill is contiguous to land lying outside the flood plain district, and the map is amended pursuant to Section 5.48. To remove flood insurance requirements, FEMA must first revise the Flood Insurance Rate Map or issue a Letter of Map Amendment or Revision.

#### **5.41.6 Compliance**

Any development as defined in Section 23, or use within the areas regulated by this ordinance, shall be in full compliance with the terms of his ordinance, and other applicable local, state, and federal regulations.

#### **5.41.7 Municipalities And State Agencies Regulated**

Unless specifically exempted by law, all cities, villages, and towns are required to comply with this section and obtain all necessary permits. State agencies are required to comply if *Wis. Stats.* 13.48(13.) applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when *Wis. Stats.* 30.12(4.) (a.) applies.

#### **5.41.8 Abrogation And Greater Restrictions**

(1.) This section supersedes all the provisions of any municipal zoning ordinance enacted under *Wis. Stats.* 59.69 or 59.692 for counties; *Wis. Stats.* 62.23 for cities; or *Wis. Stats.* 61.35 for villages or towns which adopted village powers, or *Wis. Stats.* 87.30, which relates to flood plains except that where another municipal or town zoning

ordinance is more restrictive than the provisions contained in these regulations, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(2.) This section is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. However, where this section imposes greater restrictions, the provisions of this section shall prevail.

#### **5.41.9 Interpretation**

In their interpretation and application, the provisions of this section shall be understood to be minimum requirements liberally construed in favor of the governing body, and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this section is required by a standard in ch. NR 116, Wis. Adm. Code, and where the section provision is unclear, the provision shall be interpreted in light of the ch. NR 116 standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.

#### **5.41.10 Warning A Disclaimer Of Liability**

The degree of flood protection provided by this section is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by man-made or natural causes such as ice jams, or bridge openings restricted by debris. Therefore, this section does not imply that areas outside of the delineated flood plain, or permitted land uses within the flood plain, will be totally free from flooding and associated flood damages. Nor does this section create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this section.

#### **5.41.11 Severability**

Should any portion of this section be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected.

### **5.42 GENERAL STANDARDS APPLICABLE TO ALL FLOOD PLAIN DISTRICTS**

#### **5.42.1 Hydraulic And Hydro Logic Analyses**

(1.) No development, except as provided in par. (B.) below, shall be allowed in flood plain areas which will:

(A.) Cause an obstruction to flow, defined in Section 23 as any development which physically blocks the conveyance of flood waters by itself, or in conjunction with, future similar development causing an increase in regional flood height.

(B.) Cause an increase in regional flood height due to flood plain storage area lost, which is equal to, or exceeding one-hundredth (0.01) foot.

(2.) Obstructions or increases equal to, or greater than, one-hundredth (0.01) foot may only be permitted if amendments are made to this section, the official flood plain zoning maps, including flood way lines and water surface profiles, in accordance with Section 5.48, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than one-hundredth (1.0) foot for the affected hydraulic reach of the stream unless a waiver is secured from FEMA for the one-hundredth (1.0) foot maximum increase (Rev. July 1991).

(3.) The zoning administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow, or increase in regional flood height of one-hundredth (0.01) foot or greater.

#### **5.42.2 Watercourse Alterations**

Prior to any alteration or relocation of a watercourse, and prior to the issuance of any land-use permit which may be required for the alteration or relocation of a watercourse, the local zoning official shall notify in writing, adjacent municipalities, the appropriate district office of the Department of Natural Resources, and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

#### **5.42.3 Chapter 30, 31, Wis. Stats., Development**

Development which requires a permit from the Department of Natural Resources, under chapter 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams, and navigational aids may be allowed provided the necessary local permits are obtained and necessary amendments to the official flood way lines, water surface profiles, flood plain zoning maps, or flood plain zoning section of this ordinance, are made according to Section 5.40.

## **5.43 FLOOD WAY DISTRICT (FW)**

### **5.43.1 Applicability**

The provisions of this section apply to all areas mapped as flood way on the official flood plain zoning maps, and to those portions of the general flood plain district determined to be flood way according to the procedures in Section 5.45.4.

### **5.43.2 Permitted Uses**

The following open space uses are allowed in the flood way district and the flood way portion of the general flood plain district, providing they are not prohibited by any other section and they meet the standards in Sections 5.43.3 and 5.43.4. All permits or certificates have been issued according to Sections 5.47.1 and 20.03.4:

(1.) Agricultural uses, such as: general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(2.) Nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips.

(3.) Nonstructural private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas. Parks, wildlife, nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap, skeet ranges, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of Section 5.43.3(4.).

(4.) Uses or structures accessory to open space uses, or those classified as historic structures, which are not in conflict with the provisions in Sections 5.43.3 and 5.43.4 (Rev. federal rule October 1990).

(5.) Extraction of sand, gravel, or other materials according to Section 5.43.4(4.).

(6.) Functionally water-dependent uses such as: docks, piers or wharves, including those used as part of a marina, and other water-related uses such as dams, flowage areas, culverts, navigational aids, and river crossings of transmission lines, and pipelines, according to chapters 30 and 31 *Wis. Stats.*

(7.) Public utilities, streets, and bridges, according to Section 5.43.3(3.) and Section 20.03.4.

### **5.43.3 Standards For Developments In Flood Way Areas**

(1.) General: Any development in flood way areas shall meet all of the provisions of Section 5.42 and have a low flood damage potential. Applicants shall provide the following data for the zoning administrator to determine the effects of the proposal according to Section 5.42.1

(A.) A cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow.

(B.) An analysis calculating the effects of this proposal on regional flood height. The zoning administrator shall deny the permit application where it is determined the project will increase flood elevations upstream or downstream one-hundredth (0.01) foot or more, based on the data submitted.

(2.) Structures: In, or over flood way areas, only structures which are accessory to permanent open space uses. Those classified as historic structures, or are functionally dependent on a waterfront location, may be allowed by permit, providing the structures meet all of the following criteria: (Rev. federal rule October 1990).

(A.) The structures are not designed for human habitation, or associated with high flood damage potential.

(B.) The structures are constructed and placed on the structure site so as to cause an increase less than 0.01 foot in flood height and offer minimum obstruction to the flow of flood waters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and approximately on the same line as those of adjoining structures.

(C.) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river.

(D.) The structures have all service facilities such as electrical and heating equipment at or above the flood protection elevation for the particular area.

(3.) Public utilities, streets and bridges, or mining-related activities authorized under a Mining Operations Permit issued pursuant to Section 20.03.4 by permit, provided that:

(A.) Adequate flood-proofing measures are provided to the flood protection elevation.

(B.) Construction does not cause an increase in the regional flood height according to Section 5.42.1, except where the water surface profiles, flood plain zoning maps, and flood plain zoning section of this ordinance are amended, as needed to reflect any changes resulting from such construction.

(4.) Fills or deposition of materials may be allowed by permit, provided that:

(A.) The requirements of Section 5.42.1 are met.

(B.) The fill or deposition of materials does not encroach on the channel area between the ordinary high-water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to chapter 30, *Wis. Stats.*, and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this section are met.

(C.) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling, or bulk heading sufficient to prevent erosion.

(D.) Such fills are not associated with private or public solid waste disposal.

#### **5.43.4 Prohibited Uses**

All uses not listed as permitted uses in Section 5.43.2 are prohibited within the flood way district and in the flood way portion of the general flood plain district including the following uses which are always prohibited in the flood way.

(1.) Structures in, on, or over, flood way areas that are designed for human habitation, associated with high flood damage potential, or not associated with permanent open-space uses.

(2.) The storage of any materials that are capable of: floating, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish or other aquatic life.

(3.) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts.

(4.) Any private or public sewage systems except portable latrines that are removed prior to flooding, and systems associated with recreational areas and Department approved campgrounds, that meet the applicable provisions of local ordinances and COMM 83, *Wis. Adm. Code*.

(5.) Any public or private wells that are used to obtain water for ultimate human consumption, except those for recreational areas that meet the requirements of local ordinances and chapters NR 111, and NR 112, *Wis. Adm. Code*.

(6.) Any solid or hazardous waste disposal sites, public or private.

(7.) Any wastewater treatment ponds or facilities except those permitted under Section NR 110.15(3.)(b.). *Wis. Adm. Code*.

(8.) Any sanitary sewer or water supply lines except those to service existing or proposed development located outside the flood way which complies with the regulations for the flood plain area occupied.

#### **5.44 FLOOD FRINGE DISTRICT (FF)**

**Applicability:** The provisions of this section apply to all areas within the flood fringe district, as shown on the official flood plain zoning maps, and to those portions of the general flood plain district that are determined to be in the flood fringe area pursuant to Section 5.45.4.

##### **5.44.2 Permitted Uses**

Any structure, land use, or development, including accessory structures and uses and mining-related activities pursuant to Section 20.03.4 are allowed within the flood fringe district and flood fringe portions of the general flood plain district, provided the standards contained in Section 5.44.3 are met, that the use is not prohibited by this or any other ordinance or any other local, state, or federal regulation and that all permits or certificates specified in Section 5.47.1 have been issued.

##### **5.44.3 Standards For Development In Flood Fringe Areas**

All of the provisions of Section 5.42.1 shall apply in addition to the following requirements according to the use requested.

(1.) Residential Uses: Any structure or structure used for human habitation, including mobile/manufactured homes, which is to be erected, constructed, reconstructed, altered, or moved into the flood fringe area shall meet or exceed the following standards.

(A.) The elevation of the lowest floor excluding the basement or crawl way, shall be at, or above, the flood protection elevation (which is a point two (2) feet above the regional flood elevation) on fill except where par. (2.) is applicable. The fill elevation shall be one (1) foot, or more, above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other flood-proofing measures where existing streets or sewer lines are at elevations that make compliance impractical provided the Board of Adjustment/Appeals grants a variance due to dimensional restrictions.

(B.) The basement or crawl way floor may be placed at the regional flood elevation providing it is flood-proofed to the flood protection elevation. No permit or variance shall allow any basement or crawl way below the regional flood elevation.

(C.) Contiguous, dry land access, defined in Section 23 as a vehicle access route above regional flood elevation, shall

be provided from a structure, or structure to land, which is outside the flood plain, except as provided in par. (D.) below.

(D.) In existing development where existing streets or sewer lines are at elevations which make compliance with par. (3.) impractical, the county may only permit via the conditional use process new development and substantial improvements where access roads are at, or below, the regional flood elevation.

(a.) Written assurance is provided from the appropriate local units of police, fire, and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration, and velocity of the regional flood event.

(b.) The county or local municipality has an adequate natural disaster plan concurred with the Division of Emergency Government and approved by the Department.

**(2.) Mobile homes and manufactured homes (Rev. federal rule October 1990).**

(A.) Owners or operators of all mobile manufactured home parks and subdivisions located in the regional flood plain shall provide for adequate surface drainage to minimize flood damage and prepare, secure approval, and file an evacuation plan, indicating vehicular access and escape routes, with the appropriate local emergency management authorities.

(B.) In existing mobile home parks, all new homes with new pads, replacement units on existing pads, and substantially improved mobile/manufactured homes, and recreational vehicles that remain on-site in excess of one hundred eighty (180) days, or are unlicensed, or not ready for highway use, and which are placed or improved on a site located in the regional flood plain shall:

(a.) Have the lowest floor elevated to the regional flood elevation.

(b.) Be anchored so they do not float, collapse, or move laterally during a flood.

(C.) Outside existing mobile home parks, all new, replacement, and substantially improved mobile/manufactured homes and recreational vehicles that remain on-site in excess of one hundred eighty (180) days, are not licensed, or which are not ready for highway use, and which are placed or improved on a site located in the regional flood plain shall meet the residential development standards for the flood fringe in Section 5.44.3(1.).

**(3.) Accessory Structures Or Uses**

An accessory structure or use as defined in Section 23, not connected to a principal structure, including nonresidential agricultural structures, shall meet all the applicable provisions of Section 5.43.3. A lesser degree of protection, compatible with these criteria and the criteria in sub.c. may be permissible for an accessory structure or use providing the site is not inundated to a

depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second during the regional flood.

**(4.) Commercial Uses**

Any commercial structure or structure which is to be erected, constructed, reconstructed, altered, or moved, into the flood fringe area shall meet the requirements of Section 5.44.3(1.). Storage yards, parking lots, and other accessory structures or land uses may be at lower elevations, subject to the requirements of Section 5.44.3(2.). However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second during the regional flood. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided an adequate warning system exists to protect life and property.

#### **(5.) Manufacturing And Industrial Uses**

Any manufacturing, or industrial structure or structure which is to be erected, constructed, reconstructed, altered, or moved into the flood fringe area shall be protected to the flood protection elevation utilizing fill, levees, flood walls, adequate flood-proofing measures in accordance with Section 5.47.5, or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in par. (4.), and (6.) may be permissible for storage yards, parking lots, and other accessory structures or uses.

#### **(6.) Storage Materials**

The storage of materials that are buoyant, flammable, explosive, or which in times of flooding, could be injurious to property, water quality, or human, animal, plant, fish or aquatic life, shall be at or above the flood protection elevation for the particular area or flood-proofed in compliance with Section 5.47.5. Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.

#### **(7.) Public Utilities, Streets, and Bridges**

All utilities, streets, and bridges, and all facilities and structures related to a Mining Operations Permit issued pursuant to Section 20.03(4.) should be designed to be compatible with the local comprehensive flood plain development plans.

(A.) When failure or interruption of public utilities, streets, and bridges or other structures authorized under a Mining Operations Permit issued pursuant to Section 20.03 (4.), would result in danger to the public health or safety, or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are flood proofed, in compliance with Section 5.47.5, to the flood protection elevation.

(B.) Minor or auxiliary roads or nonessential utilities and mining-related activities pursuant to Section 20.03(4.) may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.

#### **(8.) Sewage Systems**

All on-site sewage disposal systems shall be flood proofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and COMM.83, *Wis. Adm. Code*.

#### **(9.) Wells**

All public or private wells shall be flood proofed to the flood protection elevation pursuant to Section 5.47.5, and shall meet the applicable provisions of Chapters NR 111, and NR 112, *Wis. Adm. Code*.

#### **(10.) Solid Waste Disposal Sites**

All public or private solid or hazardous waste disposal sites are prohibited in flood fringe areas.

#### **(11.) Deposition of Materials**

Any materials deposited for any purpose may only be allowed if all the provisions of this ordinance are met.

### **5.45 GENERAL FLOOD PLAIN DISTRICT (GFP)**

#### **5.45.1 Applicability**

The provisions for this district shall apply to all flood plains for which regional flood data, as defined in Section 23, is not available, or where regional flood data is available, but flood ways have not been delineated. As adequate regional flood data becomes available and flood ways are delineated for portions of this district, such portions shall be designated in the flood fringe district or flood way district, as appropriate.

#### **5.45.2 Permitted Uses**

The general flood plain district encompasses both flood way and flood fringe areas. Therefore, a determination shall be made pursuant to Section 5.44, to determine whether the proposed use is located within a flood way or flood fringe area. Those uses permitted in flood ways (Section 5.43.2) and flood fringe areas (Section 5.44.2) including mining-related activities authorized under a Mining Operations Permit issued pursuant to Section 20.03 (4.) are allowed within the general flood plain district, according to the standards of section 5.45.3 and provided that all permits or certificates required under Section 5.47.1 have been issued.

#### **5.45.3 Standards For Development In the General**

Flood Plain District

Once it is determined according to Section 5.45.4 that a proposed use is located within a flood way, the provisions of Section 5.43 shall apply. Once determined that the proposed use is located within the flood fringe,

**the provisions of Section 5.44 shall apply. All provisions of the remainder of this ordinance apply to either district.**

#### **5.45.4 Determining Flood Way And Flood Fringe Limits**

Upon receiving an application for development within the general flood plain district, the zoning administrator shall:

(1.) Require the applicant to submit, at the time of application, two (2) copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general flood plain district limits, channel of stream, existing flood plain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, structure floor elevations, and flood-proofing measures.

(2.) Require the applicant to furnish any of the following additional information as is deemed necessary by the Wisconsin Department of Natural Resources for evaluation of the effects of the proposal upon flood height and flood flows, the regional flood elevation and where applicable to determine the boundaries of the flood way:

(A.) The typical valley cross-section showing the channel of the stream, the flood plain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high-water information.

(B.) Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.

(C.) Profile showing the slope of the bottom of the channel or flow line of the stream.

(D.) Specifications for structure construction and materials, flood proofing, filling, dredging, channel improvement, storage of materials, water supply, and sanitary facilities.

(3.) Transmit one copy of the information described in Section 5.45.4 (1.), and (2.) to the Department district office along with a written request for technical assistance to establish regional flood elevations and, where applicable, flood way data. Where the provisions of Section 5.47.1(2.)(C.) apply, the applicant shall provide all required information and computations, to delineate flood way boundaries and the effects of the project on flood elevations.

### **5.46 NONCONFORMING USES**

#### **5.46.1 General**

(1.) Applicability: Insofar as the standards in this section are not inconsistent with the provisions of *Wis. Stats.* 59.69(10.) for counties or *Wis. Stats.* 62.23(7.)(h.) for cities, villages, or towns that have adopted village powers, they shall apply to all nonconforming uses and nonconforming structures. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises that was lawful before the passage of this ordinance, or any amendment thereto.

(2.) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

(A.) No modifications or additions to a nonconforming use or a nonconforming structure shall be permitted unless they are made in conformity with the provisions of this ordinance for the area of the flood plain occupied. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, restructure, or replacement of any such existing use, structure, or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions. These include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components and the maintenance, repair, or replacement of existing private sewage or water supply systems or connections to public utilities.

(B.) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or structure thereon, shall conform to the applicable requirements of this section.

(C.) As requests are received by the county or municipality for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept which lists the percentage of the structure's total current value those modifications represent. (Rev. July 1991).

(D.) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty (50%) percent as described in Section 3.06 of this

ordinance, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 5.44.3(1.).

- (E.) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the requirements of this ordinance. For the purpose of this subsection, restoration is deemed impractical where the total cost of such restoration would exceed fifty (50%) percent of the CEAV and any accumulated percentage as described in 3.06 of this ordinance.

#### **5.46.2 Flood Way Areas**

(1.) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a flood way area, unless such modification or addition:

- (A.) Has been granted a permit or special condition variance which meets the flood way requirements of this ordinance.
- (B.) Meets the requirements of 5.46.1
- (C.) Will not increase the obstruction to flood flows or regional flood height.
- (D.) Any addition to the existing structure shall be flood proofed, pursuant to Section 5.47, by means other than the use of fill, to the flood protection elevation.

(2.) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a governmental agency to correct a hazard to public health, shall be allowed in a flood way area. Any replacement, repair, or maintenance of an existing on-site sewage disposal system in a flood way area shall meet the applicable requirements of all municipal ordinances and COMM. 83, *Wis. Adm. Code*.

(3.) No new well or modification to an existing well, used to obtain water for ultimate human consumption, shall be allowed in a flood way area. Any replacement, repair, maintenance, of an existing well in a flood way area shall meet the applicable requirements of all municipal ordinances and Chapter NR 111, and NR 112, *Wis. Adm. Code*.

#### **5.46.3 Flood Fringe Areas**

(1.) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality. In addition, the modification or addition shall be placed on fill or flood proofed to the flood protection elevation in compliance with the standards for that particular use in Section 5.44.3, except where Section 5.46.3(2.) is applicable.

(2.) Where compliance with the provision of par. (1.) would result in unnecessary hardship, and only where the structure will not be used for human habitation, or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in Section 21.0, may grant a variance from those provisions for modifications or additions, using the criteria listed below. Modifications or additions that are protected to elevations lower than the flood protection elevation may be permitted provided:

- (A.) No floor is allowed below the regional flood elevation for residential or commercial structures.
- (B.) Human lives are not endangered.
- (C.) Public facilities, such as water or sewer, will not be installed.
- (D.) Flood depths will not exceed two (2) feet.
- (E.) Flood velocities will not exceed two (2) feet per second.
- (F.) The structure will not be used for storage of materials described in Section 5.44.3(6.).

(3.) If neither the provisions of par. (1.), nor (2.) above can be met, an addition to an existing room in a nonconforming structure or a structure with a nonconforming use may be allowed in the flood fringe on a one-time basis only, if the addition:

- (A.) Meets all other regulations and will be granted by permit or variance.
- (B.) Does not exceed sixty (60) square feet in area.



(C.) In combination with other previous modifications or additions to the structure, does not exceed fifty (50%) of the CEAV of the structure as computed in Section 3.06.

(D.) All new private sewage disposal systems, or addition to, replacement, repair, or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and COMM. 83, *Wis. Adm. Code*.

(4.) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this section and chapter NR 111, and NR 112, *Wis. Adm. Code*.

#### **5.47 ADMINISTRATION**

The County Zoning Administrator, and the Board of Adjustment (see Section 21) shall administer this section.

##### **5.47.1 Zoning Administration**

(1.) The County Zoning Administrator is hereby authorized to administer the provisions of this section and shall have the following duties and powers.

(A.) Advise applicants of the provisions of this section; provide them with permit applications and appeals, and assure the regional flood elevation for the proposed development is shown on all permit applications.

(B.) Issue permits and inspect properties.

(C.) Keep records of all official actions such as:

(a.) All permits issued.

(b.) Work approved.

(c.) Documentation of certified lowest floor and regional flood elevations for flood plain development.

(d.) Records of water surface profiles, flood plain zoning maps and ordinances, nonconforming and structures including changes, appeals, variances, and amendments.

(D.) Submit copies of the following items to the Department district office:

(a.) Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.

(b.) Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of flood plain zoning actions taken.

(E.) Investigate, prepare reports, and report violations of this section to the appropriate municipal zoning agency and the municipal attorney for prosecution. Copies of the violation reports shall also be sent to the Department district office.

(F.) Submit copies of text and map amendments and bi-annual reports to the regional office of FEMA (Federal Emergency Management Agency).

##### **(2.) Land-Use Permit**

Unless a Mining Operations Permit has been obtained pursuant to Section 20.03.4, a land-use permit shall be obtained from the zoning administrator before any new "development" as defined in Section 23, or any change in the use of an existing structure or structure including sewage disposal systems and water supply facilities may be initiated. Application for a Mining Operations Permit shall be made as provided in Section 20.03.4. Application shall be made to the zoning administrator upon furnished application forms and shall include the following data.

(A.) General information: Site development plan shall be made as provided in Section 20.03.1.

(B.) Additional information required.

(a.) Location and elevation of existing or future access roads.

(b.) Location of flood plain and flood way limits on the property as determined from the official

flood plain zoning maps.

- (c.) The elevation of the lowest floor of proposed structures and any file using National Geodetic and Vertical Datum (NGVD).
- (d.) Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of Section 5.43 or Section 5.44 are met.
- (e.) Data sufficient to determine if the proposed development will cause either an obstruction to flow, or an increase in regional flood height or discharge according to Section 5.42.1. This may include any of the information noted in Section 5.43.3(1.).

### **(3.) Data Requirements To Analyze Developments**

The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities, and flood plain storage, for all subdivision proposals, as “subdivision” is defined in Section 236, *Wis. Stats.*, and other proposed developments exceeding ten (10) acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

- (A.) An analysis of the effect of the development on the regional flood profile, velocity of flow and flood plain storage capacity.
- (B.) A map showing location and details of vehicular access to lands outside of the flood plain.
- (C.) A surface drainage plan with adequate details showing how flood damage will be minimized.
- (D.) The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road development, electrical and plumbing, and similar items reasonable applied to the overall development costs, but need not include land costs.

### **(4.) DNR Data**

The Department will determine regional flood elevations and evaluate the proposal where the applicant is not required to provide computations as above, and inadequate data exists Forest County may transmit additional information such as the data in Section 5.45.4(1.) where appropriate, to the Department with the request for analysis.

### **(5.) Expiration**

All permits issued under the authority of this section shall expire one (1) year from the date of issuance.

### **5.47.2 Other Permits**

The applicant must secure all other necessary permits from all appropriate federal, state, and local agencies, including those

required by the U.S. Army Corps of Engineers under Section 404 of the *Federal Water Pollution Control Act* amendments of 1972, 33 U.S.C. 1334.

### **5.47.3 Board of Adjustment**

#### **(1.) Powers**

The Board created under Section 21, is hereby authorized to act as the Board of Adjustment for the purposes of these flood plain regulations.

#### **(2.) Boundary Disputes**

The following procedure shall be used by the Board of Adjustment in hearing disputes concerning the district boundaries shown on the official flood plain zoning map.

- (A.) Where a flood plain district boundary is established by approximate or detailed flood plain studies the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the board, other available evidence may be examined.
- (B.) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Adjustment.

- (C.) Where it is determined that the district boundary is incorrectly mapped, the board should inform the zoning committee or the person contesting the location of the boundary to petition the governing body for a map amendment according to Section 5.48.

### **(3.) Special Condition Variance**

Notwithstanding the provisions of Sections 3.0 and 21.0, the Zoning Board of Appeals shall not, in considering variances to these flood plain regulations.

- (A.) Permit a lower degree of flood protection in the flood plain than the flood protection elevation.
- (B.) Allow any floor of a basement or crawl way below the regional flood elevation for residential or commercial structures.
- (C.) Allow actions without the amendments to this ordinance or map(s) required in Section 5.48.1.
- (D.) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure. (Rev. federal rule October 1990).

### **(4.) Variance Notification**

When a variance is granted in a flood plain area, the Board shall notify the applicant in writing that increased flood insurance premiums and risks to life and property may result. A copy of this notification shall be maintained with the variance appeal record.

#### **5.47.4 Basis For Review Of Appeals Of Permit Denials**

(1.) In acting under Section 5.47.3 preceding, the Board of Adjustment shall review all data constituting the basis for the appeal of permit denial. This data may include (where appropriate):

- (A.) Permit application data listed in Section 5.47.1(2.).
  - (B.) Flood way/flood fringe determination data in Section 5.45.4.
  - (C.) Data listed in Section 5.43.3(1.) where the applicant has not submitted this information to the zoning administrator.
  - (D.) Other data submitted to the zoning administrator with the permit application, or submitted to the Board with the appeal.
- (2.) For appeals concerning increases in regional flood elevation the Board shall:
- (A.) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to, or greater than, one-hundredth (0.01) foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
  - (B.) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to, or greater than, one-hundredth (0.01) foot provided no other reasons for denial exist.

#### **5.47.5 Flood Proofing**

(1.) No permit or special condition variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect that the flood proofing measures are adequately designed to protect the structure or development to the flood protection elevation.

(2.) Flood proofing measures shall be designed to:

- (A.) Withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the regional flood.
- (B.) Assure protection to the flood protection elevation.
- (C.) Provide anchorage of structures to foundations to resist flotation and lateral movement.
- (D.) Insure that the structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding, without human intervention.

(3.) Flood-proofing measures could include:

- (A.) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris.
- (B.) Addition of mass or weight to structures to prevent floatation.
- (C.) Placement of essential utilities above the flood protection elevation.
- (D.) Surface or subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures.
- (E.) Construction of water supply wells, and waste treatment systems to prevent the entrance of flood waters into the systems.
- (F.) Cutoff valves on sewer lines or elimination of gravity flow basement drains.

#### **547.6 Public Information Of Flood Potential**

- (1.) Where useful, marks on bridges or structures or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the flood plain.
- (2.) All available information in the form of maps, engineering data, and regulations shall be readily available and should be widely distributed.
- (3.) All legal descriptions of property in the flood plain should include information relative to the flood plain zoning classification when such property is transferred.

### **5.48 AMENDMENTS TO FLOOD MAPS**

#### **548.1 General**

The governing body may change or supplement the boundaries of the flood plain zoning districts and the regulations contained in this ordinance in the manner provided by Section 22 of this ordinance. Actions which require an amendment include, but are not limited to, the following:

- (1.) Any change to the official flood plain zoning map including the flood way line or boundary of any flood plain area.
- (2.) Correction of significant discrepancies between the water surface profiles and flood plain zoning maps.
- (3.) Any fill in the flood plain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the flood plain.
- (4.) Any fill or encroachment into the flood plain that will obstruct flow causing an increase of one-hundredth (0.01) foot or more in regional flood height.
- (5.) Any upgrading of flood plain zoning ordinances text required by Section NR 116.05, *Wis. Adm. Code*, or otherwise required by law, or for changes by the municipality.

#### **5.48.2 Flood Plain Map Amendment Procedures**

Amendments to flood plain maps may be made upon petition of any interested party according to the provisions of this section and Section 22.0. Such petitions shall include all necessary data required by Sections 5.45.4 and 5.47.1(2.).

- (1.) Copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate District office of the Department of Natural Resources for review prior to the hearing.
- (2.) No amendment to the maps or text of this ordinance shall become effective until reviewed and approved by the Department.
- (3.) All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of one-hundredth (0.01) foot or more in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (4.) When considering amendments to the official flood plain zoning map, in areas where no water surface profiles exist, the county shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See Section 5.41.4).

### **5.49 ENFORCEMENT AND PENALTIES**

In addition to the enforcement and penalties of Section 20, every violation of this section is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the county or local municipality, the state, or any citizen thereof pursuant to *Wis. Stats.* 87.30.